

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6 FAMILY AND ADULT SERVICES DIVISION

CHAPTER 663

SPECIAL FOOD STAMP HOUSEHOLDS

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Historical Note: This chapter is based substantially upon chapter 17-716, subchapter 3 [Eff 7/19/82; am 10/2/82; am 4/1/83; am 6/16/83; am 7/5/83; am 9/2/86; am 12/27/86; am 6/18/87; am 8/31/87; am 10/26/87; am 4/28/88; am 12/30/88; am 5/4/89; am 6/1/89; am 4/16/90; am 8/25/90; am 10/10/90; am 8/30/91; R 3/19/93] chapter 17-720 [Eff 7/19/82; am 10/2/82; am 11/29/82; am 4/1/83; am 7/5/83; am 10/1/83; am 1/14/84; am 6/4/84; am 11/29/85; am 4/21/86; am 5/1/86; am 7/1/86; am 7/14/86; am 8/16/86; am 9/2/86; am 11/17/86; am 12/27/86; am 6/18/87; am 8/31/87; am 10/26/87; am 1/21/88; am 4/28/88; am 6/27/88; am 12/30/88; am 6/1/89; am 7/24/89; am 10/19/89; am 12/21/89; am 8/25/90; am 11/19/90; am 7/20/91; am 8/30/91; R 3/19/93]

SUBCHAPTER 1

HOUSEHOLD CONCEPT

§17-663-1 Definitions. As used in this subchapter:

"Boarder" means an individual to whom a household furnishes lodging and meals for reasonable compensation.

"Cash out states" means states designated by the Secretary of Health and Human Services which include specifically the value of the coupon allotment in the states' supplemental security income payments.

"Disabled member" means any member of the household who:

- (1) Receives supplemental security income benefits under Title XVI of the Social Security Act or disability or blindness

- payments under Titles I, II, XIV, or XVI of the Social Security Act; or
- (2) Is a veteran with a service-connected or nonservice connected disability rated or paid as total by the Veterans Administration or is considered in need of regular aid and attendance or permanently housebound; or
 - (3) Is a surviving spouse of a veteran and considered in need of aid and attendance or permanently housebound; or
 - (4) Is a surviving child of a veteran and considered to be permanently incapable of self-support by the Veterans Administration; or
 - (5) Is a surviving spouse or child of a veteran and entitled to compensation for a service-connected death or pension benefits for non-service-connected death by the Veterans Administration and has permanent disability. As used in this definition, "entitled" refers to those veterans' surviving spouses and surviving children who are receiving the compensation or pension benefits stated or have been approved for such payments but are not yet receiving them; or
 - (6) Receives federally or state-administered supplemental benefits under section 1616(a) of the Social Security Act provided that the eligibility to receive the benefits is based upon the disability or blindness criteria used under Title XVI of the Social Security Act; or
 - (7) Receives federally or state-administered supplemental benefits under section 212(a) of 42 U.S.C. 1382; or
 - (8) Receives disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(i) of the Social Security Act; or
 - (9) Received an annuity payment under section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 and is determined to be eligible to receive medicare by the railroad retirement board; or

- (10) Receives an annuity payment under section 2(a)(1)(v) of the Railroad Retirement Act of 1974 and is determined to be disabled based upon the criteria used under Title XVI of the Social Security Act; or
- (11) Is a recipient of disability related medical assistance under Title XIX of the Social Security Act.

"Elderly member" means a member of a household who is sixty years of age or older or who is fifty-nine years old on the date of application but who will become sixty before the end of the month of application.

"Ineligible alien" means an individual whose alien status makes the individual ineligible for program benefits.

"Live-in-attendant" means an individual who resides in a household to provide medical, housekeeping, child care, or other similar personal services.

"Parental control" means minors who are dependent financially or otherwise upon the household as opposed to independent units.

"Roomer" means an individual to whom a household furnishes lodging but not meals for reasonable compensation.

"Spouse" means either of two individuals:

- (1) Who would be defined as married to each other under section 572-1, HRS; or
- (2) Who are living together and are presenting themselves to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or tradespeople.

"SSI" means supplemental security income made in the form of monthly cash payments under the authority of:

- (1) Title XVI of the Social Security Act, as amended, to the aged, blind and disabled;
- (2) Section 1616(a) of the Social Security Act; or
- (3) Section 212(a) of Pub. L. No. 93-66.

"SSN" means social security number. [Eff 3/19/93]
(Auth: HRS §346-14) (Imp: 7 C.F.R. §271.2)

§17-663-2 Household concept. (a) A household shall be composed of any of the following individuals or groups of individuals, provided the individuals or groups are not residents of any institution (except disabled or blind individuals who are residents of group living arrangements receiving supplemental security income benefits under Title XVI or disability or blindness benefits under Titles I, II, X, XIV, or XVI of the Social Security Act, residents of alcoholic and drug addiction treatment centers, persons temporarily residing in shelters for battered women and children and elderly residents in federally subsidized housing), residents of a commercial boarding house, or living with others and paying compensation to the others for meals and lodging, except as otherwise specified in section 17-663-4:

- (1) An individual living alone;
- (2) An individual living with others, but who customarily purchases food and prepares meals for home consumption separate and apart from the others;
- (3) A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

(b) The following individuals living with others or groups of individuals living together shall be considered as customarily purchasing food and preparing meals together, even if they do not do so, with the exception of households participating in a public or private foster care program:

- (1) A spouse of a member of the household as specified in section 17-663-1.
 - (A) A spouse of a member of the household, who is temporarily out of the home for part of the month such as a salesperson or construction worker whose job site is too distant for daily commuting, shall continue to be a member of the spouse's household. If the spouse, who is temporarily out of the home due to employment, incurs shelter costs while away from home, the household may claim shelter costs for both the primary residence and the shelter away from home;

- (B) A spouse who is out of the home for more than a calendar month shall not be considered a member of the food stamp household for that calendar month;
 - (C) Spouses who establish separate residences with the intent to sever marital ties and do not return to the home for any part of the month may claim separate household status according to chapter 17-680.
- (2) A child under eighteen years of age living with a parent or parents or under the parental control of an adult household member, with the exception of children placed in a foster care program.
- (A) A child under age eighteen need not be related to the household nor must there be a legal obligation to support for the minor to be considered under the parental control of an adult household member;
 - (B) A child under age eighteen that establishes more than one residence on an ongoing basis such as a student living on campus or in the home of another during the week and returning home on weekends, or a child whose divorced parents have joint custody and split the living arrangement shall be eligible as a household member in that household where the child resides the majority of the month;
 - (C) A child or an adult who is placed in a foster care home shall be considered a boarder of the foster home and shall be considered a member of the household only if the boarder household requests the foster child or foster adult be allowed to participate as a member of the household providing the boarding services as specified in section 17-663-4. This provision is in effect even if the foster care payments are given directly to the foster care home provider;

- (3) Parents living with their natural, adopted, or stepchildren twenty-one years of age or younger.

(c) Although a group of individuals living together and purchasing and preparing meals together constitutes a single household under subsection (a), an otherwise eligible member of such a household who is sixty years of age or older (and the spouse and children under eighteen years of age under the member's parental control) and who is unable to purchase and prepare meals because he suffers from a disability considered permanent under the Social Security Act or suffers from a nondisease related, severe, permanent disability may be a separate household from the others provided that the income of the others with whom the individual resides (excluding the income of the spouse of the elderly and disabled individual) does not exceed 165 per cent of the poverty line.

- (1) The household shall verify the disability by the means specified in chapter 17-647. If it is not obvious that the individual is unable to purchase food and prepare meals because of the disability the individual shall provide a statement from a physician or licensed or certified psychologist attesting to the inability.

- (2) The elderly disabled individual (or the individual's authorized representative) shall be responsible for obtaining the cooperation of the others with whom he resides in obtaining the necessary income verification.

(d) Elderly persons, as defined in section 17-663-1, who are unable to purchase and prepare meals for themselves, may claim separate household status, if other persons purchase food and prepare meals separately for the elderly person.

(e) The household of a member of the armed forces, who has been temporarily assigned to sea duty or away from the home base for a full month or more shall be entitled to a separate household status while the active military member is away from home.

(f) Except for parents living with minor children or spouses living together, as specified in subsection (b)(1) and (2), all other potential household members, including parents and adult children and siblings

living together, who establish more than one residence during the month, on an ongoing basis, shall be determined to be a member of that household where they reside the majority of the month. [Eff 3/19/93; am 2/7/94; am 10/16/95; am 10/28/96] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.1(a))

§17-663-3 Nonhousehold and excluded household members. (a) In some cases, the branch may find individuals residing with a household who are not considered household members.

(b) The following persons shall be termed non-household members and shall not be considered household members in determining the household's eligibility or coupon allotment. Nonhousehold members who are otherwise eligible may participate in the program as separate households.

- (1) A roomer;
- (2) A live-in-attendant; and
- (3) Any other individual who shares living quarters with a household but who does not customarily purchase food and prepare meals with the household.

(c) The following individuals shall be termed excluded household members and shall not be considered household members when determining the household's size for the purpose of assigning a benefit level to the household or of comparing the household's monthly income with the income eligibility standards. Excluded household members may not participate in the program as separate households.

- (1) An ineligible alien who does not meet the citizenship or eligible alien status;
- (2) An individual who has been disqualified from the FSP for failure to obtain or refusal to provide a SSN;
- (3) An individual who has been disqualified from the FSP for intentional program violation;
- (4) Ineligible students who do not meet the eligibility criteria set forth in subchapter 5;
- (5) SSI recipients in "cash-out" states;
- (6) An individual who has been disqualified from the FSP for failure to comply with work

registration or with employment and training requirements as specified in subchapter 4 of chapter 17-684;

- (7) A fleeing felon; and
- (8) An individual convicted of federal or state felonies for possession, use or distribution of a controlled substance.

(d) The income and resources of the following excluded household members shall be considered available to the remaining household members in accordance with subchapter 7. These individuals shall be included as a member of the household for the purpose of defining a household under subchapter 1.

- (1) The ineligible alien who does not meet the citizenship or eligible alien status as defined in chapter 17-655;
- (2) The disqualified individual who failed to obtain or refused to provide a SSN;
- (3) The individual who has been disqualified for intentional program violation; and
- (4) An individual who has been disqualified for failure to comply with work registration or employment and training requirements.

(e) The income and resources for ineligible students and SSI recipients in cash-out-states shall not be considered available to the remaining household members and shall be treated as specified in subchapter 7.

(f) The income and resources of an individual convicted of federal or state felonies for possession, use, or distribution of a controlled substance shall be considered available to the remaining household members in accordance with subchapter 7. [Eff 3/19/93; am 10/28/96] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.1(b), 273.11(c); Pub. L. No. 104-193 (1996))

§17-663-4 Ineligible households. (a) The households in this section shall be excluded from eligibility for program benefits.

(b) Boarders shall be ineligible to participate in the program independent of the household providing the board. They may participate as members of the household providing the boarding services to them, at the request of the household. The household with which

the boarder resides (including the household of the proprietor of a boarding house) may participate in the program, if the household meets all the eligibility requirements for program participation. If an applicant household identifies any individual in the household as a boarder, the following provisions shall apply:

- (1) With the exception for children who are placed in a foster care program, boarder status shall not be extended to children under eighteen years of age under the parental control of a member of the household, to either parents living with their natural, adopted, or stepchildren or children living with their parents, or siblings (natural, adopted, half or step brothers and sisters), including children or siblings residing with elderly or disabled parents or siblings or to a spouse;
- (2) Boarder status shall not be extended to persons paying less than a reasonable monthly payment for meals. An individual furnished both meals and lodging by the household but paying compensation of less than a reasonable amount, shall be considered a member of the household which provides the meals and lodging. When the boarder's payments for room are distinguishable from the payments for meals, only the amount paid for meals will be evaluated to determine if reasonable compensation is being paid for meals. The reasonable monthly payment for meals shall be paid in cash. A reasonable monthly payment shall be either of the following:
 - (A) Boarders whose board arrangement is for more than two meals a day shall pay an amount which equals or exceeds the Thrifty Food Plan for the appropriate size of the boarder household; or
 - (B) Boarders whose board arrangement is for two meals or less per day shall pay an amount which equals or exceeds twothirds of the Thrifty Food Plan for the appropriate size of the boarder household; and

- (3) None of the income or resources of individuals determined to be boarders and who are not members of the household providing the boarder services as prescribed in paragraph (2) shall be considered available to the household. However, the amount of payment that a boarder gives to a household shall be treated as self-employment income to the household. The procedures for handling self-employment income from boarders (other than such income received by a household that owns and operates a commercial boarding house) are set forth in section 17-663-76. The procedures for handling income from boarders by a household that owns and operates a commercial boarding house are set forth in subchapter 6. For program purposes, a commercial boarding house means an establishment licensed as a commercial enterprise which offers meals and lodging for compensation. In project areas without licensing requirements, a boarding house means a commercial establishment which offers meals and lodging for compensation with the intent of making a profit. The number of boarders residing in a boarding house shall not be used to determine if a boarding house is a commercial enterprise.
- (4) For households participating in a foster care program, the foster care payments that are directly attributable to the support of the foster individual shall be considered the foster individual's income even if the payments are made directly to the foster care home provider. The foster care payments shall be considered countable income for the household only if the household has requested the foster individual be included as a household member. Any additional payment given to the foster care home provider as incentive or retainer fees for participating in the foster care program that is separate from the regular foster care payment shall be considered as unearned income to the foster care home provider household.

(c) Residents of institutions. An individual shall be considered a resident of an institution when the institution provides the individual with the majority of meals (over fifty per cent of three meals daily) as part of the institution's normal services. Residents of institutions shall not be eligible for participation in the program, except for:

- (1) Residents of federally subsidized housing for the elderly, built under either section 202 of the Housing Act of 1959 (12 U.S.C. §1701q) or section 236 of the National Housing Act (42 U.S.C. 3538);
- (2) Narcotic addicts or alcoholics who, for the purposes of regular participation in a drug addiction or alcohol treatment and rehabilitation program, reside at a facility or treatment center;
- (3) Disabled or blind individuals (as defined in the definition of "disabled member" contained in section 17-663-1) who are residents of group living arrangements, as defined in section 17-663-37;
- (4) Women and children residing in shelters for battered women and children; and
- (5) Residents of public or private nonprofit shelters for homeless persons.

Residents of public institutions who apply for SSI prior to their release from an institution under the Social Security Administration's Prerelease Program for the Institutionalized shall be permitted to apply for food stamps at the same time the residents apply for SSI. These prerelease applicants shall be processed in accordance with chapters 17-647 and 17-681.

(d) Fleeing felons. No member of a household who is otherwise eligible to participate in the food stamp program shall be eligible to participate in the program as a member of that or any other household during any period during which the individual is:

- (1) Fleeing to avoid prosecution, or custody or Confinement after conviction, under the law of the place from which the individual is fleeing, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the individual is fleeing; or

(2) Violating a condition of probation or parole imposed under a federal or state law.

(e) Drug offenders. An individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance shall not be eligible for benefits under the food stamp program. [Eff 3/19/93; am 8/18/94; am 12/9/94; am 10/28/96] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.1(c), (e); Pub. L. No. 104-193 (1996))

§17-663-5 Head of household. (a) All households with an adult parent of children shall be offered the option of selecting its head of household at certification and recertification. Once an eligible household selects its head, no further head of household designation may be imposed by the branch. If the household does not choose to select its head, the branch shall designate the head of household.

(b) The provisions of subsection (a) shall take precedence over the head of household designations as defined in subchapter 2 and chapter 17-684.

(c) For all households not subject to subsection (a), the branch shall designate as the head of household the principal wage earner as defined in sections 17-663-10 and 17-684-21 or permit the household to designate if there is no principal wage earner in the household. The branch shall not use the head of household classification to impose special requirements on the household, such as requiring that the head of the household, rather than another responsible member of the household, appear at the branch to apply for benefits. [Eff 3/19/93; am 8/18/94] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.1(d); Pub. L. No. 101-624, §1725 (1990))

§17-663-6 Household composition. (a) A household shall list on the application all the members of the household. The branch shall examine each application to determine if there are members who are not eligible to participate in the program. Ineligible members shall include:

- (1) Ineligible aliens;
 - (2) Boarders, independent of the household providing the board;
 - (3) Students who fail to meet the eligibility criteria set forth in subchapter 5;
 - (4) Individuals disqualified for fraud or for failure to obtain a social security number;
 - (5) Individuals disqualified for failure to comply with work registration or employment and training requirements;
 - (6) Fleeing felons; and
 - (7) Drug offenders.
- (b) The branch shall verify questionable information provided by a household about the composition of the household, such as the household's size or its boarder status. Because it is difficult to verify whether individuals customarily purchase and prepare meals together, the branch shall generally accept a household's statement regarding food preparation and purchasing. [Eff 3/19/93; am 10/28/96] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.1(c), 273.2(f)(2); Pub. L. No. 104-193 (1996))

§§17-663-7 to 17-663-9 (Reserved).

SUBCHAPTER 2

VOLUNTARY QUIT

§17-663-10 REPEALED. [R 10/28/96]

§17-663-11 REPEALED. [R 10/28/96]

§17-663-12 REPEALED. [R 10/28/96]

§17-663-13 REPEALED. [R 10/28/96]

§17-663-14 REPEALED. [R 10/28/96]

§17-663-15 REPEALED. [R 10/28/96]

§17-663-16 REPEALED. [R 10/28/96]

§17-663-17 REPEALED. [R 10/28/96]

§§17-663-18 to 17-663-20 (Reserved).

SUBCHAPTER 3

DRUG ADDICTS AND ALCOHOLICS IN TREATMENT PROGRAMS

§17-663-21 Eligibility as household members.
Members of eligible households, including single person households, who are narcotic addicts or alcoholics and who regularly participate in a drug addiction or alcoholic treatment and rehabilitation program on a nonresident basis may use coupons to purchase food prepared for them during the treatment program by a private, nonprofit organization or institution which is authorized by FNS to redeem the coupons through wholesalers, or which redeems coupons at retail food stores as the authorized representative of participating households. Resident members may also voluntarily elect to participate in the program but shall do so through an authorized representative who shall be a designated employee of the treatment facility. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.1(f)(2), 274.10(d)(1))

§17-663-22 Centers as authorized representatives.
(a) Residents of treatment centers shall apply for food stamp benefits and shall be certified through the use of an authorized representative. The authorized representative shall be a designated employee of the private nonprofit organization or institution that is administering the treatment and rehabilitation program.

The organization or institution shall apply for food stamp benefits on behalf of each drug addict or alcoholic and shall receive and spend the coupon allotment for food prepared, served, or both, to the drug addict or alcoholic.

(b) Narcotic addicts or alcoholics who for the purpose of regular participation in a drug addiction or alcohol treatment and rehabilitation program, reside at a facility or treatment center, shall not be considered residents of institutions. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.1(e), (f)(2))

§17-663-23 Certification policy. (a) Residents of drug addiction or alcoholic treatment centers shall be certified as one-person households by using the same provisions applicable to all other applicant households except that certification shall be completed through use of an authorized representative as specified in section 17-663-22.

(b) Prior to certifying a resident for food stamps, the branch shall verify that the treatment center is authorized by FNS as a retailer or is certified by the department or state department of health, as a drug addiction or alcoholic treatment center.

(c) For residents of treatment centers who are entitled to expedited service, the branch shall mail an ATP card to the residents or have the ATP card available to be picked up no later than five calendar days following the filing date. If eligibility for the initial application is expedited, the branch shall complete verification and documentation requirements prior to issuance of a second coupon allotment.

(d) When regular processing standards apply, the branch shall complete the verification and documentation requirements prior to making an eligibility determination for the initial application.

(e) The branch shall process changes in household circumstances and recertifications by using the regular standards that apply to all other food stamp households.

(f) Resident households shall have the same rights to notices of adverse action, adequate notice, fair hearing, and entitlement to lost benefits as do all other food stamp households. A resident of a

treatment center shall be given an application upon request and shall be allowed to file the application on the same day. The interview, verification, and other certification procedures shall be accomplished through the authorized representative.

(g) Regular participants in a drug addiction or alcoholic treatment and rehabilitation program, either on a resident or nonresident basis, shall be exempt from work registration requirements as specified in subchapter 3 of chapter 17-684.

(h) If the information on the application is questionable, the regular participation of a drug addict or alcoholic in a treatment program shall be verified by the branch through the organization or institution operating the program before the branch grants the work registration requirement exemption.

(i) Residents of treatment centers shall usually be certified in accordance with chapter 17-647.

(j) In situations where the resident's children are also living with the resident in the treatment center, the resident and the resident's children shall one household. Residents of drug addiction and alcoholic treatment centers who are receiving treatment in the centers shall be certified as separate households. [Eff 3/19/93; am 8/18/94] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.7(i), 273.11(e), 273.21(b))

§17-663-24 Requirements for center participation.
"Drug addiction or alcoholic treatment and rehabilitation program" means any drug addiction or alcoholic treatment and rehabilitation program conducted by a private, nonprofit organization or institution, or a publicly operated community mental health center, under part B of Title XIX of the Public Health Service Act (42 U.S.C. §300x et seq.). The centers shall be certified by the state department of health, or other agency designated by the governor as the agency responsible for the State's programs for the rehabilitation of alcoholics and drug addicts under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. §§4541-4594) and the Drug Abuse Office and Treatment

Act of 1972 (21 U.S.C. §§1101-1194). [Eff 3/19/93]
(Auth: HRS §346-14) (Imp: 7 C.F.R. §278.1(e))

§17-663-25 Monthly reports. (a) Each treatment and rehabilitation center shall provide the branch with a list which shall include:

- (1) The names of currently participating residents; and
 - (2) A statement signed by a center official attesting to the validity of the list.
- (b) The branch shall require submission of the list on a monthly basis. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(e)(2))

§17-663-26 Participant departure from the center. (a) The following actions shall be taken upon a participant leaving a center:

- (1) The treatment center shall notify the branch within ten days of the date the departure becomes known to the center;
 - (2) The center shall provide the resident household with:
 - (A) The participant's ID card;
 - (B) Any untransacted ATP cards; and
 - (C) Its full allotment if already issued and if no coupons have been spent on behalf of that individual household;
 - (3) The treatment center shall provide the household with one-half of its monthly coupon allotment if the following occur:
 - (A) The coupons have already been issued and any portion has been spent on behalf of the individual; and
 - (B) The household leaves the treatment and rehabilitation program prior to the sixteenth day of the month; and
 - (4) If the household leaves after the sixteenth day of the month and the coupons have already been issued and used, the household shall not receive any coupons.
- (b) Once the household leaves the treatment center, the center shall not act as that household's authorized representative.

(c) The treatment center shall provide the household, if possible, with a change report form. The household shall use the form to report its new address and other circumstances after leaving the center. The center shall advise the household to return the form to the appropriate branch office within ten days.

(d) When a resident leaves a treatment center without notifying the center, the center should attempt to contact the resident. If unable to locate the resident, the treatment center shall return the ID card to the branch.

(e) The treatment center shall return to the branch any coupons not provided to departing residents at the end of each month. These returned coupons shall include those not provided to departing residents because they left either prior to the sixteenth and the center was unable to provide the individual with the coupons or they left on or after the sixteenth of the month. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(e)(5))

§17-663-27 Reporting changes. The treatment center shall notify the branch of changes in the household's income or other household circumstances. The treatment center shall inform the branch when the drug addict or alcoholic leaves the treatment center. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(e)(4))

§17-663-28 Returning ATP cards. The treatment center shall return the household's ATP card and ID card to the branch if the cards are received after the individual has left the center. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(e)(4))

§17-663-29 Center liability. (a) The organization or institution shall be responsible for any misrepresentation or fraud which it knowingly commits in the certification of center residents. The organization or institution shall be knowledgeable about households' circumstances and shall carefully

review those circumstances with residents prior to applying on their behalf.

(b) The organization or institution shall be liable for all losses or misuse of food coupons held on behalf of resident households and for all overissuances which occur while the households are residents of the treatment center. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(e)(6))

§17-663-30 Center penalties and disqualifications. (a) The organization or institution which is authorized by FNS as a retail food store may be penalized or disqualified by FNS if it is determined administratively or judicially that coupons were misappropriated or used for purchases that did not contribute to a certified household's meals. When the branch has reason to believe that an organization or institution is misusing coupons in its possession, the branch shall promptly notify PD-IM so that FNS may be notified.

(b) The branch shall not take any action against the organization or institution prior to FNS action. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(e)(7))

§17-663-31 Claims for overpayments. The branch shall establish a claim against the treatment center for overpayments of food coupons held on behalf of resident clients if any overpayments are discovered during an investigation or hearing procedure for redemption violations. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(e)(7))

§17-663-32 Disqualified treatment center. (a) If FNS disqualifies an organization or institution from participation as an authorized retail food store, the branch shall suspend the treatment center's authorized representative status for the same period.

(b) If the treatment center loses its authorization from FNS to accept and redeem coupons, or if the treatment center is no longer certified by the state department of health, the treatment center's residents

shall not be eligible to participate in the FSP. The residents shall not be entitled to a notice of adverse action but shall receive a written notice explaining the reason for the termination and the effective date of termination. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(e)(7))

§17-663-33 Branch review. The branch shall conduct periodic, random on-site visits to treatment centers to assure the accuracy of the lists and to ascertain whether the branch's records are consistent and current. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(e)(2))

§§17-663-34 to 17-663-36 (Reserved).

SUBCHAPTER 4

GROUP LIVING ARRANGEMENTS

§17-663-37 Definitions. As used in this subchapter:

"Eligible foods" means:

- (1) Any food or food product intended for human consumption except alcoholic beverages, tobacco, and hot foods and hot food products prepared for immediate consumption;
- (2) Seeds and plants to grow foods for the personal consumption of eligible households;
- (3) Meals prepared and delivered by an authorized meal delivery service like meals on wheels to households eligible to use coupons to purchase delivered meals;
- (4) Meals served by a communal dining facility for the elderly, or supplemental security income households to households eligible to use coupons for communal dining;
- (5) Meals prepared and served by an authorized drug addiction or alcoholic treatment and rehabilitation center to households eligible to use coupons to purchase those meals;

- (6) Meals prepared and served by an authorized group living arrangement facility to residents who are blind or disabled as defined in the definition of "disabled member" contained in section 17-663-1;
- (7) Meals prepared by and served by a shelter for battered women and children to its eligible residents; and
- (8) In the case of homeless food stamp households, meals prepared for and served by an authorized public or private nonprofit establishment that feeds homeless persons (e.g., soup kitchen, temporary shelter) which is approved by the state program development-income maintenance (food stamps) office.

"Group living arrangement" means a public or private nonprofit residential setting that serves no more than sixteen residents and is certified by the department or the state department of health under regulations issued under section 1616(e) of the Social Security Act or under standards determined to be comparable to standards implemented by the department or the state department of health under section 1616(e) of the Social Security Act. To be eligible for food stamp benefits, a resident shall be blind or disabled as defined in the definition of "disabled member" contained in section 17-663-1.

"Nonprofit group living arrangement" means an institution which has a tax exempt certificate from the Internal Revenue Service.

"Retail food store" means:

- (1) An establishment, or department thereof, or neighborhood's, farmers', or people's open market food peddlers whose food sales consist of over fifty per cent of eligible staple food items used for home preparation and consumption. Eligible staple foods include meat, poultry, fish, bread, cereals, vegetables, fruits, and dairy products, but do not include hot prepared foods and accessory items such as coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments, and spices;
- (2) Public or private communal dining facilities, certain federally subsidized housing facili-

ties, and meal delivery services which provide meals to eligible elderly and disabled individuals;

- (3) Recognized drug addiction or alcoholic treatment and rehabilitation program facilities and publicly operated community mental health centers which conduct residential programs for drug addicts or alcoholics that wish to redeem coupons through wholesalers;
- (4) Private nonprofit cooperative food buying clubs;
- (5) Public or private nonprofit group living arrangements that wish to redeem coupons through wholesalers;
- (6) Public or private nonprofit shelters for battered women and children; and
- (7) Public or private nonprofit establishments, approved by the state program development-income maintenance (food stamps) office, that feeds homeless persons. [Eff 3/19/93; am 2/07/94; am 12/09/94] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.2)

§17-663-38 Eligibility as household members. A resident of a group living arrangement may participate in the FSP provided the resident shall:

- (1) Be disabled or blind;
- (2) Live in a non-profit group living facility or arrangement certified by the department or the state department of health;
- (3) Receive benefits under Title I, Title II, Title X, Title XIV, or Title XVI of the Social Security Act (42 U.S.C. §§401-433; 1381-1383); and
- (4) Meet all other eligibility criteria. [Eff 3/19/93; am 2/7/94] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.1(e)(3))

§17-663-39 Expedited service. A resident of a group living arrangement who is entitled to expedited service shall have an ATP card mailed to the resident or shall have the card available for pickup no later than five calendar days following the date the applica-

tion was filed. [Eff 3/19/93] (Auth: HRS §346- 14)
(Imp: 7 C.F.R. §273.2(i))

§17-663-40 Methods of application. (a) A resident of a group living arrangement may apply for participation in the FSP:

- (1) As a single individual on the individual's own behalf;
- (2) Through an authorized representative of the individual's choice;
- (3) Through the use of an authorized representative who is employed and designated by the group living arrangement; or
- (4) With other residents, as one household group.

(b) The group living facility or arrangement shall determine, after consultation with other agencies providing services to the resident, the method of application based on the resident's ability to manage the resident's own affairs.

(c) A facility may use all methods of application. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(f))

§17-663-41 Certification policy. (a) If a resident applies on the resident's own behalf or through an authorized representative of the resident's choice, the household size shall be in accordance with section 17-663-2, where if the resident is purchasing and preparing the majority of resident's own meals, the resident shall be considered a one-person household. However, if the resident is purchasing and preparing the majority of the meals together with other members in the group living arrangement, then all the members, except for those individuals who meet the criteria listed in subsection (b), must be considered members of the same food stamp household. The resident shall control the food stamp coupons and shall be responsible for all overissuances. The resident may use the coupon allotment to:

- (1) Give the coupons to the group living facility, which will use the coupons to purchase food for meals served to the resident individually or communally;

- (2) Purchase and prepare food for the resident's own consumption; or
 - (3) Purchase meals prepared and served by the facility.
- (b) If the resident applies through the facility's authorized representative the resident shall be considered a one-person household. The facility shall be responsible for any overissuances. The facility may use the coupon allotment to:
- (1) Purchase food for meals prepared and served to the eligible resident; or
 - (2) Give the resident any portion or all of the coupon allotment for the resident's own use.
- (c) If the facility determines several residents qualify as a household, the residents may apply together as a single household group. The members of the group shall be responsible for all overissuances. The number of persons in the household shall determine the household size. [Eff 3/19/93; am 4/01/96] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(f))

§17-663-42 Use of coupons. (a) The group living arrangement may purchase and prepare food to be consumed by eligible residents on a group basis if residents normally obtain the meals:

- (1) At a central location as part of the group living arrangement service which is authorized by FNS to redeem coupons at wholesalers or which redeems coupons at retail food stores as the authorized representative of participating households; or
 - (2) By delivery from a central preparation location to the individual residents.
- (b) If residents purchase or prepare food for home consumption, as opposed to communal dining, the group living arrangement shall ensure that each resident's food stamps are used for that resident's meals.
- (c) If the resident or group of residents retains use of the resident's or group's own coupon allotment, the resident or group may either use the coupons to purchase:

- (1) Meals prepared for them by the facility which is authorized by FNS to redeem coupons at wholesalers or which redeems coupons at retail food stores as the authorized representative of participating households; or
- (2) Food to prepare meals for the resident's or group's own consumption. [Eff 3/19/93; am 4/01/96] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(f), 274.10(d))

§17-663-43 Reporting changes. (a) The resident shall report all changes to the branch if the resident applied on the resident's own behalf or through an authorized representative of the resident's own choice.

(b) The group living arrangement, when acting in the capacity of an authorized representative, shall report all changes to the branch, including changes in household income and other household circumstances, and when the resident leaves the facility. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(f)(4))

§17-663-44 Household departure from the facility.

- (a) When a household leaves a facility:
 - (1) The group living arrangement shall return to the branch any household's ATP card if the ATP card is received after the household has left the facility;
 - (2) The group living arrangement, either acting as an authorized representative or retaining use of the coupons on behalf of the residents (regardless of the method of application), shall provide residents with:
 - (A) An ID card; and
 - (B) Any untransacted ATP cards; or
 - (C) Full coupon allotment provided no coupons have been spent on behalf of the individual household;
 - (3) Where the coupons have been issued and a portion of the coupon has been spent on behalf of the individual, and the household leaves the group living arrangement prior to

the sixteenth day of the month, the facility shall provide the household with:

- (A) The household's ID card; and
 - (B) One-half of the household's monthly coupon allotment;
- (4) If the household leaves on or after the sixteenth day of the month and the coupons have already been issued and used, the household shall not receive any coupons; and
 - (5) If a group of residents has been certified as one household and has returned the coupons to the facility to use, the departing residents shall be given a prorata share of one-half of the household's monthly coupon allotment if the household leaves on or prior to the sixteenth day of the month and shall be instructed to obtain ID cards from the appropriate branch office.

(b) Once the resident leaves, the group living arrangement shall not act as the individual's authorized representative. The group living arrangement shall, if possible:

- (1) Provide the household with a change report form to report to the branch the individual's:
 - (A) New address; and
 - (B) Circumstances since leaving the group living arrangement; and
- (2) Advise the household to return the form to the appropriate branch office within ten days.

(c) The following actions shall be taken where a resident or group of residents apply on the resident's or group's own behalf and then leave:

- (1) If a resident or a group of residents apply on the resident's or group's own behalf and if the resident or group retains use of the resident's or group's own coupons, the individuals shall be entitled to keep the coupons when the individuals leave;
- (2) If a group of residents has applied as one household, a prorata share of the remaining coupons shall be provided to any departing household member; and
- (3) The group arrangement shall, if possible:

- (A) Provide the household with a change report form to report to the branch the individual's:
 - (i) New address; and
 - (ii) Circumstances since leaving the group living arrangement; and
- (B) Advise the household to return the form to the appropriate branch office within ten days.

(d) The group living arrangement shall return to the branch any coupons not provided to departing residents at the end of each month. These returned coupons shall include those not provided to departing residents because they left on or after the sixteenth and the facility was unable to provide them with the coupons. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(f)(5))

§17-663-45 Monthly reports of group living facilities. (a) The group living facility shall provide the branch with a list of residents in the facility who are participating in the FSP. The list shall be submitted monthly and shall be signed by either the administrator or assistant administrator of the facility to attest to the validity of the list.

(b) The branch shall conduct periodic, random on-site visits, to assure the accuracy of the list and that the branch's records are consistent and up to date. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(f)(2))

§17-663-46 Group living arrangement as a retail food store. (a) The facility shall be authorized by FNS as a retail food store only if it wishes to redeem food stamps through wholesalers.

(b) If the facility accepts coupons from residents for the purchase of meals for whom it is not the authorized representative, it shall secure FNS authorization as a retail food store. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §278.1(f))

§17-663-47 Exemptions from advance notice. (a) Advance notice of termination to a resident of a group living arrangement shall not be required when the following occur:

- (1) The facility loses its certification from the state department of health or the department; or
- (2) FNS suspends the facility's status as an authorized representative, disqualifying the facility as a retailer.

(b) A resident of a group living arrangement applying on the resident's own behalf shall be eligible to participate, if otherwise eligible. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.13(b)(12))

§§17-663-48 to 17-663-50 (Reserved).

SUBCHAPTER 5

STUDENT PARTICIPATION

§17-663-51 Definition of student. As used in this subchapter, "Student" means any person who is:

- (1) Age eighteen through forty-nine;
- (2) Physically and mentally fit; and
- (3) Enrolled at least half-time in an institution of higher education.
 - (A) "Half-time" status shall be determined by the particular school. If a definition cannot be obtained from the school, "half-time" shall mean one-half the total number of hours, classes, or credits required for full-time enrollment as determined by the particular school.
 - (B) "Institution of higher education" means any institution including, but not limited to colleges, universities, and vocational or technical schools at the post high school level that normally requires a high school diploma or

equivalency certificate for enrollment
in its curriculum.

A student will be considered enrolled in an institution of higher education if the person is enrolled in a regular curriculum at a college or university that offers degree programs regardless of whether a high school diploma is required. A college includes a junior, community, two-year, or four-year college or a university. [Eff 3/19/93; am 2/7/94; am 8/19/96] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.2, 273.5(a))

§17-663-52 Persons who are not students. For the purpose of this subchapter, the following persons are not students:

- (1) Persons age seventeen or under or persons age fifty or over;
- (2) Physically or mentally disabled persons;
- (3) Persons attending high school, regardless of age;
- (4) Individuals participating in on-the-job training programs;
- (5) Persons attending institutions of higher education less than half-time; or
- (6) Individuals enrolled in schools or training programs which do not require a high school diploma or an equivalent certificate. These schools or training programs include, but are not limited to:
 - (A) Mail course;
 - (B) Adult education;
 - (C) Self-study course; and
 - (D) Community colleges.

However, in regards to community colleges, students who are enrolled in two-year programs or curricula that require a high school diploma or equivalency certificate prior to enrollment in the two-year program or curricula shall be considered as being enrolled in an institution of higher education. [Eff 3/19/93; am 2/7/94] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.5(a))

§17-663-53 Eligibility requirements for student participation. In order to be eligible for participation in the food stamp program, any person defined as a student shall be:

- (1) Employed for a minimum of twenty hours per week, and be paid for such employment or, if self-employed, be employed for a minimum of twenty hours per week and receive weekly earnings at least equal to the federal minimum wage multiplied by twenty hours; or
- (2) Participating in a state or federally financed work study program during the regular school year.
 - (A) To qualify under this provision, the student must be approved for work study at the time of application for food stamps, the work study must be approved for the school term, and the student must anticipate actually working during that time. The exemption shall begin with the month in which the school term begins or the month work study is approved, whichever shall continue until the end of the month in which the school term ends, or it becomes known that the student has refused an assignment; and
 - (B) The exemption shall not continue between terms when there is a break of a full month or longer unless the student is participating in work study during the break; or
- (3) An individual who is fully and independently responsible for the care of a dependent household member under the age of six or between the ages of six and twelve where the branch has determined that adequate child care is not available to enable the individual to attend class and satisfy the requirements of paragraph (1) or (2); or
- (4) Enrolled full-time in an institution of higher education, as determined by the institution, and is a single parent with responsibility for the care of a dependent child under age twelve.

- (A) This provision applies in these situations where only one natural, adoptive or stepparent (regardless of marital status) is in the same food stamp household as the child; and
 - (B) If no natural, adoptive, or stepparent is in the same food stamp household as the child, another full-time student in the same food stamp household as the child may qualify for eligible student status under this provision if this student has parental control over the child and is not living with his or her spouse; or
 - (5) Receiving benefits from the aid to families with dependent children program; or
 - (6) Be assigned to or placed in an institution of higher learning through or in compliance with one of the following programs:
 - (A) A program under the Job Training Partnership Act (29 U.S.C. §1501 et seq.);
 - (B) The AFDC JOBS program; or
 - (C) The E&T/JOBS Conformance Demonstration Project as provided in chapter 17-684.
- Self-initiated placements during the period of time the person is enrolled in one of these employment and training programs shall be considered to be in compliance with the requirements of the employment and training program in which the person is enrolled, provided that the program has a component for enrollment in an institution of higher education and that program accepts the placement. Persons who voluntarily participate in one of these employment and training programs and are placed in an institution of higher education through or in compliance with the requirements of the program shall also qualify for the exemption. [Eff 3/19/93; am 12/9/94; am 8/19/96] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.5(b))

§17-663-54 School enrollment period. (a) The enrollment status of a student shall begin on the first day of the school term of the institution of higher education. Such enrollment shall be deemed to continue through normal periods of class attendance, vacation, and recess unless the student:

- (1) Graduates;
- (2) Is suspended or expelled;
- (3) Drops out; or
- (4) Does not intend to register for the next regular school term, excluding summer school.

(b) "Eligibility" as a result of participation in the work incentive program under Title IV of the Social Security Act (42 U.S.C. §§630-644) shall be deemed to continue as long as the student maintains continuous enrollment as specified in subsection (a). [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.5(b))

§17-663-55 Income and resources of ineligible students. The income and resources of ineligible students living with a household shall not be considered in determining eligibility or level of benefits for the household. The ineligible student shall be considered an excluded member and treated as specified in subchapter 7. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.9(c)(6))

§17-663-56 Exemption from work registration requirement of students. (a) A student who has met the eligibility requirements set forth in section 17-663-53 shall be exempt from any work registration requirement.

(b) Persons not enrolled at least half-time or who experience a break in enrollment status due to graduation, expulsion, suspension, or who drop out or otherwise do not intend to return to school, shall not be considered students for the purpose of qualifying for this exemption. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b)(9))

§17-663-57 Exemption from work registration of persons attending high school. Any person, regardless of age, enrolled at least half-time in any high school shall be exempt from any work registration requirement during the school year and during summer vacation. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b)(9))

§17-663-58 Determining net food stamp income. (a) Students may have uneven cash flows and may have sources of income not normally available to other households, such as:

- (1) Scholarships;
- (2) Fellowships;
- (3) Educational grants;
- (4) Deferred payment loans;
- (5) Veteran's educational benefits;
- (6) Cash gifts or awards for educational expenses; and
- (7) Cash or vendor payments from parents.

Therefore, the treatment of income for determination of eligibility for students shall be in accordance with the special procedures in this subchapter.

(b) Determination of income and exclusions for households where a member is an eligible student as defined in section 17-663-51, or attending a school for the physically or mentally handicapped, or attending an institution of post secondary education which does not require a high school diploma or equivalency certificate for enrollment, or attending high school or a program that provides for completion of a secondary school diploma or obtaining the equivalent thereof shall be made as follows:

- (1) Disregard all student income funded under Title IV of the Higher Education Act;
- (2) Total non-Title IV-funded awards, such as but not limited to the following:
 - (A) Educational loans with deferred payments, excluding origination fees and insurance premiums;
 - (B) Grants;
 - (C) Scholarships;
 - (D) Fellowships;
 - (E) Veteran's educational benefits; and

- (F) Other educational payments received specifically because of the student's status which are used to pay tuition and mandatory fees.
- (3) Exclude (subtract) from the total in subsection (b)(2) that portion that is used for tuition and mandatory school fees at:
 - (A) Institutions of post secondary education;
 - (B) Correspondence schools at that level;
 - (C) A school for the physically or mentally handicapped at any age level;
 - (D) High schools; or
 - (E) Programs that provide for completion of a secondary school diploma or an equivalent thereof.
- (4) Any reimbursements from a source outside the household to students for specific educational expenses, such as travel, books, or other miscellaneous student expenses, but not allowances for living expenses, such as food, rent, or clothing shall be excluded. However, the excludable expenses claimed by a student shall not exceed the value of the assistance granted.

(c) Households that receive non-Title IV-funded scholarships, educational grants, fellowships, deferred payment loans for education, veteran's educational benefits, and other educational payments, shall have this income, after exclusions, averaged over the period for which the loans or grants are provided. However, the educational income shall not affect more benefit months than the number of months in the period over which it is prorated. The averaging of income shall be inclusive of every month which is included in the time period of the loan or grant regardless of the time elapsed from the receipt of the loan or grant. The averaged amount for the elapsed period shall not be counted as income.

(d) Verification of the amounts received from scholarships, deferred loans, grants, or veteran's educational benefits may be obtained directly from the agency or institution providing the moneys. [Eff 3/19/93; am 2/7/94] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.9(b)(2), 273.9(c)(3), 273.10(c)(3))

§§17-663-59 to 17-663-66 (Reserved).

SUBCHAPTER 6

§17-663-67 General statement. (a) "Self-employment" means the process of receiving income directly from one's own business, trade, or profession rather than earning a specified salary or wages from an employer.

(b) In order to be self-employed, a household shall:

- (1) Sell a service or product for a profit;
- (2) Be independently responsible for obtaining or providing a service or product;
- (3) Have independent costs and expenses necessary to provide a service or product;
- (4) Determine independently the manner, method, and process of business operations; or
- (5) Have success or failure of the business operation depend upon the efforts of the business. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-663-68 Areas of concern. The certification areas affected by self-employment income shall include:

- (1) Work registration exemption. The determination shall be made on an individual basis as specified in section 17-663-69;
- (2) Assignment of certification periods. A twelve-month certification period may be assigned if the household's annual support is from self-employment;
- (3) Annualization of self-employment income. Self-employment income shall be annualized if it represents a household's annual support, even if received in less than twelve months; and
- (4) Deductions for the costs of doing business. The deductions shall be allowed for all self-

employment income, which need not represent the household's annual support. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(a))

§17-663-69 Work registration. (a) The receipt of income from self-employment shall not automatically exempt a household member from the work registration requirement. The branch shall determine that the self-employment enterprise:

- (1) Requires at least thirty hours of work per week during the period of certification or the twelve month work registration period; or
- (2) Produces weekly earnings at least equal to the federal minimum wage multiplied by thirty hours, if not requiring thirty hours of work per week.

(b) In instances where the household member hires or contracts for another person or firm to handle the daily activities of the enterprise, the household member shall not be considered self-employed for the purpose of work registration unless the household member works on enterprise activities at least thirty hours per week.

(c) The branch shall review the circumstances of the household members engaged in seasonal self-employment to determine if the minimum requirement is met in the off-season. If these minimum requirements are not met, the household member shall register for work, unless otherwise exempt.

(d) The household member shall be exempt during the work season if the household member is actively engaged in the enterprise on an average of thirty hours per week, or receives the minimum earnings equivalent to the federal minimum wage multiplied by thirty hours per week, over the certification period. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b)(1)(viii))

§17-663-70 Special income considerations. (a) Income derived from rental property shall be considered earned income for the twenty per cent earned income deduction only if a member of the household is actively

engaged in managing the property for at least an average of twenty hours per week. The cost of doing business shall be deducted from income from rental property. If the twenty hours per week criterion is not met, the net income shall be considered unearned.

(b) The proceeds from the sale of capital goods or equipment shall be calculated in the same manner as a capital gain for federal income tax purposes. Even if only fifty per cent of the proceeds from the sale of capital goods or equipment is taxed for federal income tax purposes, the branch shall count the full amount of the capital gain as income. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.9(b)(1), 273.11(a)(3))

§17-663-71 Costs of producing self-employment income - allowable exclusions. (a) Costs of producing self-employment income shall be calculated by anticipating the monthly allowable costs of producing the self-employment income. The expenses shall include, but shall not be limited to, the identifiable costs of:

- (1) Labor (wages paid to an employee or work contracted out);
- (2) Stock (inventory);
- (3) Raw materials (used to make a product);
- (4) Seed and fertilizer (for farming);
- (5) Interest paid to purchase income producing property such as equipment or capital assets;
- (6) Insurance premiums;
- (7) Taxes, assessments, and utilities paid on income producing property;
- (8) Service and repair of income producing property (including automobiles);
- (9) Rental of business equipment and property;
- (10) Advertisement;
- (11) Licenses and permits;
- (12) Legal or professional fees; and
- (13) Business supplies.

(b) The following costs of producing self-employment income shall not be allowed:

- (1) Payments on the principal of the purchase price of income producing real estate and

capital assets, equipment, machinery, and other durable goods;

- (2) Net loss sustained in any prior period;
- (3) Federal, state, and local income taxes, money set aside for retirement purposes, and other work related personal expenses such as transportation costs to and from work included in the twenty per cent earned income deduction;
- (4) Salaries paid to any household member, including the self-employed individual; and
- (5) Depreciation.

(c) Some items such as automobiles and real property, may be for both business and personal use of the household. In these instances, the branch shall prorate the portion of the expense attributable to business use. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.9(c)(9); 273.11(a)(4); 273.11(a)(2), (4))

§17-663-72 Annualizing self-employment income.

(a) Self-employment income that is received on a monthly basis from a household not required to monthly report will not be averaged, but will be counted in accordance with prospective budgeting procedures in chapter 17-680.

(b) Monthly reporting households which receive self-employment income on a monthly basis shall report the actual amount of such income on the monthly report form. The household's benefit level for each month shall be based on the actual amount of self-employment income reported, even if such income fluctuates from month to month, and budgeted retrospectively in accordance with chapter 17-680.

(c) Households subject to monthly reporting who derive their self-employment income monthly from a farming operation and who incur irregular expenses to produce such income shall be given the option to annualize the self-employment farm income and expenses over a twelve-month period.

(d) Self-employment income which represents the household's annual income and which is received less often than monthly will be annualized over a twelve-

month period even if the income is received within only a short period of time during that twelve months.

- (1) Self-employment income will be annualized even if the household receives income from other sources in addition to self-employment.
 - (2) If there has been a substantial increase or decrease in business so that the averaged amount does not accurately reflect the household's actual monthly circumstances, the self-employment income will be anticipated.
 - (e) Self-employment income that is intended to meet the household's needs for only part of the year will be averaged over the length of time the income is intended to cover, rather than a twelve-month period.
 - (f) If a self-employment enterprise has been in existence for less than one year:
 - (1) The income from the self-employment will be averaged over the period of time the business has been in existence, and the monthly amount projected for the coming year; or
 - (2) If the business has been in operation for such a short time that there is insufficient information to make a reasonable projection, the household may be certified for less than one year until the business has been operating long enough to base a longer projection.
- [Eff 3/19/93; am 8/19/96] (Auth: HRS §346-14) (Imp: C.F.R. §273.11(a)(1), (2))

§17-663-73 Determining monthly self-employment income. The procedures for arriving at the monthly self-employment income are as follows:

- (a) For the period of time the income is determined to cover:
 - (1) Add all gross self-employment income including capital gains;
 - (2) Exclude the cost of producing the self-employment income; and
 - (3) Divide the self-employment income by the number of months over which the income will be averaged.
- (b) For households whose self-employment income is not averaged but is calculated on an anticipated basis, the branch shall:

- (1) Add any capital gains the household anticipates receiving in the next twelve months starting with the date the application is filed and dividing this amount by twelve;
- (2) Use the average monthly capital gains figure in successive certification periods during the next twelve months, except that a new average monthly amount shall be calculated over the twelve-month period if the anticipated amount of capital gains changes; and
- (3) Then:
 - (A) Add the anticipated monthly amount of capital gains to the anticipated monthly self-employment income;
 - (B) Calculate the cost of producing the self-employment income by anticipating monthly allowable costs of producing; and
 - (C) Subtract the cost of producing the self-employment income from the self-employment income.

(c) The monthly net self-employment earned income, less any farm self-employment losses, will be added to any other earned income received by the household. The total monthly earned income, less the earned income deduction, will then be added to all monthly unearned income received by the household.

(d) Farm self-employment losses will be offset against other countable household income. To be considered a self-employed farmer, the farmer must receive or anticipate receiving annual gross income of \$1,000 or more from the farming enterprise. Farming losses will be calculated as follows:

- (1) Farming losses occur when the cost of producing the income exceeds the gross income. These losses will be averaged or anticipated over the year in the same manner as farm self-employment income to determine monthly losses.
- (2) The monthly losses will be subtracted from other countable household income for both the gross income determination and the budget computation.
- (3) When there is other self-employment income in the household, the farming losses will be

subtracted from the net self-employment income, not from the total household income. If there are losses remaining after this computation, the remainder will be subtracted from the total of other household income. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(a)(1), (2), (3))

§17-663-74 Certification periods. Households that receive annual support from self-employment shall be certified for up to twelve months. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(a)(5), 273.21)

§17-663-75 Households with roomers or boarders. (a) Households that operate commercial rooming or boarding houses, shall be considered self-employed and the criteria in sections 17-663-67 through 17-663-74 shall apply.

(b) Households with roomers or boarders that are not considered commercial boarding houses, shall be allowed the portion of a roomer or boarder payment which is the cost of doing business. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(b))

§17-663-76 Treatment of boarders and boarder payments. (a) Persons paying a reasonable amount for room and meals shall be excluded from the household when determining the household's eligibility and benefit level.

(b) Payments from the boarder shall be treated as self-employment income as provided below:

- (1) The income from boarders shall include all direct payments to the household for room and meals, including contributions to the household's shelter expenses; and
- (2) Shelter expenses paid directly by boarders to a person outside of the household shall not be counted as income to the households.

(c) That portion of the boarder payments which is a cost of doing business shall be excluded by the branch after the branch determines the income received

from the boarder. The cost of doing business shall consist of one of the following amounts, provided the amount allowed as the cost of doing business shall not exceed the payment the household received from the boarder for lodging and meals:

- (1) The cost of the thrifty food plan for a household size that equals the number of boarders; or
- (2) The actual documented cost of providing room and meals, if the actual cost exceeds the thrifty food plan. If actual costs are used, only separate and identifiable costs of providing room and meals to the boarder shall be excluded.

If the cost of doing business equals or exceeds the board payment, no boarder income shall be included as income to the household. In no case shall a loss be offset against other income; and

(d) The net income from self-employment shall be added to other earned income and the earned income deduction shall be applied to the total earned income amount. Shelter costs the household actually incurs, even if the boarder contributes to the household for part of the household's shelter expenses, shall be computed to determine if the household will receive a shelter deduction. The shelter costs shall not include any shelter expenses directly paid by the boarder to a third party, such as the landlord or utility company. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(b)(1))

§§17-663-77 to 17-663-79 (Reserved).

SUBCHAPTER 7

TREATMENT OF INCOME AND RESOURCES OF EXCLUDED AND NONHOUSEHOLD MEMBERS

§17-663-80 Excluded members. (a) Individual household members may be excluded:

- (1) For intentional program violation;

- (2) Because of disqualification for failure or refusal to obtain or provide a social security number;
- (3) For being an ineligible alien;
- (4) Because of disqualification for failure to comply with work registration or employment and training requirements;
- (5) For being a fleeing felon; or
- (6) For being convicted of federal or state felonies for possession, use or distribution of a controlled substance.

(b) During the period of time a household member is ineligible, the eligibility and benefit level of any remaining household members of a household containing individuals excluded because of disqualification for intentional program violation or for failure to comply with work registration or employment and training requirements shall be determined as follows:

- (1) The income and resources of the excluded household member or members shall continue to count in their entirety, and the entire household's allowable earned income standard, medical, dependent care, child support, and excess shelter deductions shall continue to apply to the remaining household members.
- (2) The excluded member shall not be included when determining the household's size for the purposes of:
 - (A) Assigning a benefit level to the household;
 - (B) Comparing the household's monthly income with the income eligibility standards; or
 - (C) Comparing the household's resources with the resource eligibility limits. The branch shall not increase a household's coupon allotment as a result of the exclusion of one or more household members.

(c) During the period of time a household member is ineligible, the eligibility and benefit level of any remaining household members of a household containing individuals excluded for being an ineligible alien or because of disqualification for refusal to obtain or provide an SSN shall be determined as follows:

- (1) The resources of the excluded household member shall continue to count in their entirety to the remaining household members.
- (2) A pro rata share of the income of the excluded member shall be counted as income to the remaining members. The pro rata share shall be calculated by first subtracting the allowable exclusions from the excluded member's income and dividing the income evenly among the household members including the excluded member. All but the excluded member's share shall be counted as income for the remaining household members.
- (3) If the prorated income attributed to the household is earned income, the twenty per cent earned income deduction shall be applied to the prorated income.
- (4) That portion of the household's allowable shelter, child support, and dependent care expenses which are either paid by or billed to the excluded members shall be divided evenly among the household's members including the excluded member. All but the excluded member's share shall be counted as a deductible shelter, child support, or dependent care expense for the remaining household members.
- (5) The excluded member shall not be included when determining the household's size for the purposes of:
 - (A) Assigning a benefit level to the household;
 - (B) Comparing the household's monthly income with the income eligibility standards; or
 - (C) Comparing the household's resources with the resource eligibility limits.
- (d) The income and resources of a household member excluded because the individual is an ineligible student or SSI cash-out recipient shall not be considered available to the household with whom the individual resides and shall be treated in accordance with this subchapter.
- (e) Whenever an individual is excluded within the household's certification period, the eligibility or

ineligibility of the remaining household members shall be determined as much as possible from information in the case file. The following action shall be required:

- (1) If a household's benefits are reduced or terminated within the certification period because one of its members was excluded because of disqualification for intentional program violation, the remaining household members shall be notified of the household members' eligibility and benefit level at the same time the disqualified member is notified of the disqualification. The household shall not be entitled to a notice of adverse action but may request a fair hearing to contest the reduction or termination of benefits, unless the household has already had a fair hearing on the amount of the claim as a result of consolidation of the administrative disqualification hearing with the fair hearing.
- (2) If a household's benefits are reduced or terminated within the certification period because one or more of its members is disqualified for refusal to provide or obtain an SSN or for failure to comply with a work requirement, or is an ineligible alien, or failed to sign either the declaration statement form or the application for food stamps attesting to the individual's citizenship or alien status, the branch shall issue a notice of adverse action. The notice shall inform the household:
 - (A) Of the exclusion;
 - (B) The reason for the exclusion;
 - (C) The eligibility and benefit level of the remaining members; and
 - (D) The actions the household shall take to end the exclusion. [Eff 3/19/93; am 10/13/95; am 10/28/96] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(c); Pub. L. No. 104-193 (1996))

§17-663-81 Nonhousehold members. (a) The income and resources of nonhousehold members that have not

been disqualified shall not be considered available to the household.

(b) Cash payments from the nonhousehold member to the household shall be considered income unless the cash payments are vendor payments, which are not counted as income.

- (1) If the household shares deductible expenses with the nonhousehold member, only the amount actually paid or contributed by the household shall be deducted as a household expense.
- (2) If the payments or contributions cannot be differentiated, the expenses shall be prorated evenly among the persons actually paying or contributing to the expense and only the household's prorated share shall be deducted.

(c) When the earned income of one or more household members and the earned income of a nonhousehold member are combined into one wage, the income of the household members shall be determined as follows:

- (1) If the household's share can be identified, the branch shall count that portion due to the household as earned income.
- (2) If the household's share cannot be identified, the branch shall prorate the earned income among all those whom it was intended to cover and count that prorated portion to the household.

(d) Nonhousehold members shall not be included when determining the size of the household for the purposes of:

- (1) Assigning a benefit level to the household;
- (2) Comparing the household's monthly income with the income eligibility standards; or
- (3) Comparing the household's resources with the resource eligibility limits. [Eff 3/19/93]
(Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(d))

§§17-663-82 to 17-663-84 (Reserved).

SUBCHAPTER 8

FINANCIAL ASSISTANCE HOUSEHOLDS

§17-663-85 Combined financial assistance/FSP application process. (a) In order to facilitate participation in the FSP, households applying for financial assistance shall be notified of their right to apply for food stamp benefits at the same time and shall be allowed to apply for food stamp benefits at the same time the households apply for other assistance.

(b) A household's eligibility and benefit level shall be based on food stamp eligibility criteria and the household shall be certified in accordance with the notice, timeliness, and procedural requirements of the food stamp rules. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.2(j))

§17-663-86 Joint processing. (a) Financial assistance applications, except where the household indicates it does not want food stamps, shall be processed as food stamp applications in accordance with the regular food stamp processing standard. If it is unclear from the application as to whether the household wants it processed for food stamp purposes, the branch shall determine the household's intent at the interview or through other contact with the household.

(b) The branch shall conduct a single interview at initial certification for both financial assistance and food stamp purposes.

- (1) Financial assistance households shall not be required to see a different worker; and
- (2) Households shall not be relieved of the responsibility for a personal interview in order to be certified for financial assistance when a personal interview has been waived for the FSP.

(c) If verification requirements for financial assistance differ from the verification required in chapter 17-647, the determination of food stamp eligibility shall not be delayed beyond thirty days after the date the application is filed if the branch has sufficient verification to meet the requirements of

chapter 17-647 but has insufficient verification to meet the financial assistance rules.

(d) As a result of differences in financial assistance and food stamp application processing procedures and timeliness standards, the branch shall, if necessary, determine food stamp eligibility prior to determining the household's eligibility for financial assistance payments. Action on the food stamp portion of the application shall not be delayed or the application shall not be denied because the financial assistance determination has not been made.

(e) If the branch is able to anticipate the amount and the date of receipt of the initial financial assistance payment, but the payment will not be received until a subsequent month, the branch shall vary the household's food stamp benefit level according to the anticipated receipt of the payment and shall notify the household. Portions of initial payments intended to cover a previous month shall be disregarded as a lump-sum payment.

(f) If the amount or date of receipt of the initial financial assistance payment cannot be anticipated at the time of the food stamp eligibility determination, the financial assistance payments shall be handled as a change in circumstances. The branch shall not be required to send a notice of adverse action if the receipt of the financial assistance grant reduces or terminates the household's food stamp benefits, provided the household is notified in advance that its benefits may be reduced or terminated when the grant is received.

(g) A household whose financial assistance application is denied shall not be required to file a new food stamp application but shall have the household's food stamp eligibility determined or continued on the basis of:

- (1) The original application filed jointly for financial assistance and food stamp purposes; and
- (2) Any other documented information obtained subsequent to the application which may have been used in the financial assistance determination and is relevant to food stamp eligibility or level of benefits. [Eff

§17-663-87 Certification procedures for financial assistance households. (a) A household where all members are included in a single financial assistance payment shall have the household's food stamp recertification completed at the same time the household is redetermined for financial assistance.

(b) If a financial assistance household has not had its financial assistance redetermination completed timely, the branch shall ensure that the food stamp recertification is timely completed. In no event shall food stamp benefits be continued beyond the end of the certification period.

(c) A household shall not be required to report changes in the household's financial assistance grants, since the branch has prior knowledge of all changes in the financial assistance grants.

(d) Except as provided in subsection (c) a financial assistance household shall follow the same reporting requirements as any other food stamp household, and shall use the food stamp change report form or monthly eligibility report form. A financial assistance household which reports a change in circumstances to the financial assistance worker shall be considered to have reported the change for food stamp purposes except that households subject to monthly reporting shall be required to report the change only on the monthly eligibility report form.

(e) A household shall be notified:

- (1) Whenever the household's benefits are altered as a result of change in the financial assistance benefits;
- (2) Whenever the food stamp certification period is shortened to reflect changes in the household's circumstances.

(A) If the certification period is shortened, the household's certification period shall not end any earlier than the month following the month in which the branch determines that the certification period shall be shortened.

- (B) The shortened certification period shall allow adequate time for the branch to send a notice of expiration and for the household to reapply on time; or
- (3) Whenever the household's financial assistance benefits are terminated, but the household is still eligible for food stamps, its members shall be advised of food stamp work registration requirements, if applicable.
- (f) Whenever a change results in the reduction or termination of the household's financial assistance benefits within its food stamp certification period, and the branch has sufficient information to determine how the change affects the household's food stamp eligibility and benefit level, the branch shall take the following actions:
 - (1) If a change in household circumstances requires a reduction or termination in both the financial assistance payment and in food stamp benefits, the branch shall issue a single notice of adverse action, or adequate notice for households required to monthly report, for both the financial assistance and food stamp actions.
 - (A) If the household requests a fair hearing within the period provided by the notice of adverse action or adequate notice, the household's food stamp benefits shall be continued on the basis authorized immediately prior to sending the notice unless the basis for the termination was that the household failed to file a completed monthly report by the branch's deadline;
 - (B) If the fair hearing is requested for both programs' benefits, the hearing shall be conducted according to financial assistance procedures and timeliness standards. However, the household shall reapply for food stamp benefits if the food stamp certification period expires before the fair hearing process is completed;
 - (C) If the household does not appeal, the change shall be effective in accordance

with the provisions specified in chapter 17-680;

- (2) If the household's food stamp benefits will be increased as a result of the reduction or termination of financial assistance benefits, the branch shall issue the financial assistance notice of adverse action, but shall not take any action to increase the household's food stamp benefits until the household decides whether it will appeal the adverse action.
 - (A) If the household decides to appeal and its financial assistance benefits are continued, the household's food stamp benefits shall continue at the previous basis.
 - (B) If the household does not appeal, the branch shall make the change effective for the next regularly issued allotment for the household. If, due to the computer processing deadline, the branch is unable to increase the next allotment, the branch shall supplement the household for that month.

(g) Whenever a change results in the termination of a household's financial assistance benefits within its food stamp certification period, and the branch does not have sufficient information to determine how the change affects the household's food stamp eligibility and benefit level, such as when an absent parent returns to a household, rendering the household categorically ineligible for financial assistance, and the branch does not have any information on the income of a new household member, the branch shall not terminate the household's food stamp benefits but instead shall take the following actions:

- (1) Where a financial assistance notice of adverse action has been sent, the branch shall wait until either the household's notice of adverse action period expires or the household requests a fair hearing, whichever occurs first. If the household requests a fair hearing and its financial assistance benefits are continued pending the

- appeal, the household's food stamp benefits shall be continued at the same basis; or
- (2) If a financial assistance notice of adverse action is not required, or the household decides not to request a fair hearing and continuation of its financial assistance, the branch shall send the household a notice of expiration which informs the household that its certification period will expire at the end of the month following the month the notice of expiration is sent and that it shall reapply if it wishes to continue to participate. The notice of expiration shall also explain to the household that its certification period is expiring because of changes in its circumstances which may affect its food stamp eligibility and benefit level. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.12(f)(2), 273.7(k), 273.10(f)(2), 273.21)

§17-663-88 Mass changes in financial assistance.

(a) When the department makes an overall adjustment to financial assistance payments, corresponding adjustments in the households' food stamp benefits shall be handled as a mass change. When the branch has at least thirty days advance knowledge of the amount of the financial assistance adjustment, the branch shall recompute food stamp benefits to be effective in the same month as the financial assistance change. If the branch has less than thirty days advance knowledge, the food stamp change shall be effective no later than the month following the month in which the financial assistance change was made.

(b) A notice of adverse action shall not be required when a household's food stamp benefits are reduced or terminated as a result of a mass change in the financial assistance grant. The branch shall send individual notices to households to inform the households of the change. If a household requests a fair hearing, benefits shall be continued at the former level only if the issue being appealed is that of food stamp eligibility or that benefits were improperly

computed. [Eff 3/19/93] (Auth: HRS §346-14) (Imp:
7 C.F.R. §273.12(e)(2))

§§17-663-89 to 17-663-91 (Reserved).

SUBCHAPTER 9

SUPPLEMENTAL SECURITY INCOME (SSI) HOUSEHOLDS

§17-663-92 Participation of SSI households. (a) SSI applicants or recipients who have not applied for food stamps in the thirty preceding days, or who do not have applications pending may apply for and participate in the FSP as food stamp only households or aged, blind, or disabled households. Households applying simultaneously for SSI and food stamps shall be subject to food stamp eligibility criteria, and benefit levels shall be based solely on food stamp eligibility criteria until the household is considered categorically eligible. However, households in which all members are either AFDC or SSI recipients or authorized to receive AFDC or SSI benefits shall be food stamp eligible based on their AFDC/SSI status.

(b) Households in which all members are participating in the SSI program shall have the option of applying for food stamps at the Social Security Administration (SSA) office. The SSA staff shall complete joint SSI and food stamp applications for residents of public institutions in accordance with chapter 17-655 by using the joint SSI and food stamp application form that has been approved by both FNS and SSA.

(c) Except for applications for residents of public institutions who apply jointly for SSI and food stamp benefits prior to their release from the institution, the branch office receiving SSA forwarded applications shall make an eligibility determination and issue food stamp benefits to eligible SSI households within thirty days following the date the applications were received by the SSA office.

- (1) Applications shall be considered filed for normal processing purposes when the signed applications are received by the SSA.
- (2) Expedited processing time standards shall begin on the date the appropriate food stamp application office receives a signed food stamp application.
 - (A) The branch shall prescreen all applications received from the SSA for entitlement to expedited services on the day the applications are received at the correct food stamp office.
 - (B) All SSI households entitled to expedited service shall be certified in accordance with established procedures for expedited services.
- (3) Food stamp applications and supporting documents sent to an incorrect branch office shall be sent to the correct office by the receiving unit on the same day.
- (d) For residents of public institutions who apply for benefits prior to their release from the institution, the filing date of their application shall be the date of their release from the institution.
 - (1) The branch shall make an eligibility determination and issue food stamp benefits to the residents of public institutions within thirty days following the date of the applicant's release from the institution.
 - (2) Expedited processing time standards for an applicant who has applied for food stamps and SSI prior to release shall also begin on the date of the applicant's release from the institution.
 - (3) The SSA shall notify the branch of the date of release of the applicant from the institution. If, for any reason, the branch is not notified on a timely basis of the applicant's release date, the branch shall restore benefits to the applicant back to the date of release.
- (e) Households in which all members are applying for or participating in SSI shall not be subjected to an office interview at the food stamp office.

- (1) The branch eligibility worker shall not contact the household further in order to obtain information for certification for food stamp benefits unless:
 - (A) The application is improperly completed;
 - (B) Mandatory verification required by chapter 17-647 is missing; or
 - (C) The branch eligibility worker determines that certain information on the application is questionable.
- (2) Any additional contact with the household shall be by telephone or mail.
- (f) The SSA shall refer non-SSI households and households in which not all members have applied for or received SSI to the correct branch office. These applications shall be processed in accordance with procedures for regular applications for food stamp benefits. [Eff 3/19/93] (Auth: HRS §346- 14) (Imp: 7 C.F.R. §§273.2(k); 273.7(1), (2))

§17-663-93 Verification. (a) The branch shall ensure that all required information is verified prior to certification for households initially applying. Households entitled to expedited certification procedures shall be processed in accordance with chapter 17-647.

(b) The branch may verify SSI benefits through the state data exchange (SDX) and beneficiary data exchange (BENDEX) to the extent permitted by data exchange agreements with SSA. The branch shall not verify wage information through BENDEX.

- (1) Information verified through SDX or BENDEX shall not be reverified unless the information is questionable.
- (2) Households shall be given the opportunity to provide verification from another source if all necessary information is not available on the SDX or the BENDEX, or if the SDX or BENDEX information is contradictory to other household information and statements.

(c) Quality control errors stemming from inadequate SSA verification of information on applications forwarded to the department shall not be

considered departmental errors. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.2(k)(1))

§17-663-94 Certification period. (a) The branch shall certify households, processed under these rules, for up to twelve months according to established certification procedures provided in chapter 17-647.

(b) The branch shall send a notice of expiration to jointly processed households in which the households are subsequently denied SSI benefits and as a result, food stamp eligibility or benefit level may be affected.

(c) The notice of expiration shall include a statement that the:

- (1) Certification period shall expire at the end of the month following the month in which the notice is sent;
- (2) Households shall reapply if the households wish to continue to participate;
- (3) Expiration of the certification period is a result of changes in circumstances which may affect the households' eligibility or benefit levels; and
- (4) Households shall be entitled to an out-of-office interview with established procedures as provided in chapter 17-647. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.2(k)(1))

§17-663-95 Reporting changes. (a) The household shall report changes to branches in accordance with established procedures provided in chapter 17-655.

(b) The branch shall process changes in accordance with established procedures provided in chapter 17-680.

- (1) The branch shall take required action in accordance with chapter 17-680 upon learning of the determination for SSI from the SDX, the household, advice from the SSA, or from any other source.
- (2) The branch shall process adjustments to SSI cases resulting from mass change in accordance with established procedures as provided

in chapter 17-683. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.2 (k)(1), 273.21)

§17-663-96 Restoration of lost benefits. The branch shall restore to a household benefits which were lost by an error by the branch or by the SSA through joint processing. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.2(k)(1))

§17-663-97 SSI households applying at the branch. The branch shall allow SSI households to submit food stamp applications to local food stamp offices rather than through the SSA if the households choose. In such cases, all verification including documentation pertaining to SSI program benefits shall be provided by the household, by SDX or BENDEX, or obtained by the branch. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.2(k)(1))

§17-663-98 Work registration. Household members applying for SSI and food stamps shall have the work registration requirements waived until the members are determined:

- (1) Eligible for SSI and thereby become exempt from work registration; or
- (2) Ineligible for SSI. A determination of the members' work registration statuses shall then be made through recertification procedures in accordance with subchapter 3 of chapter 17-684. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(1))

§17-663-99 Recertification. (a) The branch shall complete the application process and approve or deny timely applications for recertification in accordance with established procedures provided in chapter 17-648.

- (1) A personal interview shall be waived if requested by a household consisting entirely

of SSI participants unable to appoint an authorized representative.

- (2) The branch shall provide SSI households with notices of expiration in accordance with established procedures provided in chapter 17-648. The notices shall inform households consisting entirely of SSI recipients that the households are entitled to a waiver of a personal interview if the households are unable to appoint an authorized representative.

(b) Households shall be entitled to make a timely application for recertification in accordance with chapter 17-648 at an SSA office. SSA shall accept the application of a pure SSI household and forward the completed application and any available verification to the branch office. Where SSA accepts and refers the application in such situations, the household shall not be required to appear at a branch office interview, although the branch may conduct an out-of-office interview, if necessary. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.2(k)(2))

§§17-663-100 to 17-663-102 (Reserved).

SUBCHAPTER 10

RESIDENT FARM LABORERS AND SCHOOL EMPLOYEES

§17-663-103 Resident farm laborers. Resident farm laborers shall be certified on the basis of the farm laborers' primary source of income. The laborers shall be divided into laborers who work for one employer and laborers who work for more than one employer throughout the year. The certification periods and handling procedures shall differ for each category depending upon the predictability of household circumstances. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.10(c)(3))

§17-663-104 Single employer household. (a) Farm laborers whose primary source of income is from regular farm employment with the same employer shall be certified for periods up to one year, providing that income may be readily predicted and household circumstances are not likely to change. The households are regularly employed for the entire year when the households receive a regular monthly salary.

(b) For a regularly employed and paid farm worker, the monthly income figure shall be used to determine the benefit level for the entire certification period because it is regular and should not vary from month to month.

(c) Households which by contract derive the households' annual income in a period of time shorter than one year shall have the income averaged over a twelve-month period provided the income is not received on an hourly or piecework basis. However, if the variation in income between the work season and nonwork season is substantial and the income figure assigned during the nonwork season is not truly representative of the actual cash available to the household, consideration shall be given to certifying the household for less periods of time to take into account the income actually available to the households during the nonwork season. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.10(c)(3))

§17-663-105 Multiple employer household. Where advance or deferred payments are not received from the employer, the household may have income from another source and shall be treated as a multiple employer household. The certification period of these households shall not be for one year but shall depend on the predictability of the household's circumstances. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.10(c)(3), 273.11(a)(1))

§17-663-106 School employees. (a) Households that derive annual income in a period of time shorter than one year shall have the income averaged over the twelve-month period, provided the income is not received on an hourly or piecework basis. This

provision includes teachers and other school employees under a contract renewable on an annual basis. The members shall be considered to be receiving compensation for an entire year even though predetermined nonwork periods are involved or actual compensation is scheduled for payment during the work periods only.

(b) The contract renewal process may involve:

- (1) Signing a new contract each year;
- (2) Automatic renewal; or
- (3) As in cases of school tenure, implied rehire rights and preclusion of the use of a written contract.

(c) The fact that a contract is in effect for an entire year does not necessarily mean that the contract will stipulate work every month of the year. There may be certain predictable nonwork periods or vacations, such as the summer break between school years.

(d) Income from a contract shall be considered compensation for a full year regardless of the frequency of compensation as:

- (1) Stipulated in the terms of the contract; or
- (2) Determined at the convenience of the employer.

(e) The annual income household members received from contracted employment described above shall be averaged over a twelve-month period to determine the members' average monthly income. To determine household eligibility and the basis of issuance:

- (1) All other monthly income from other household members shall be added to the average monthly income;
- (2) Income exclusions and deductions shall be applied in the normal manner; and
- (3) Once eligibility is determined, the annualized income may be averaged or prorated unevenly over the twelve months to determine the household's basis of issuance during the certification period.

(f) The above procedure shall not apply to recipients of emergency food stamp assistance where:

- (1) The other party to the contract cannot or will not make payments specified in the contract; or
- (2) A labor dispute interrupts the flow of earnings specified in the contract. [Eff

3/19/93] (Auth: HRS §346-14) (Imp: 7
C.F.R. §273.10(c)(3))

§§17-663-107 to 17-663-109 (Reserved).

SUBCHAPTER 11

RESIDENTS OF SHELTER FOR BATTERED WOMEN AND CHILDREN

§17-663-110 Shelter for battered women and children. "Shelter for battered women and children" means a public or private nonprofit residential facility that serves battered women and children. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.2)

§17-663-111 Shelter certification. Prior to certifying its residents, shelters for battered women and children must meet the department's definition of shelters. Shelters having FNS authorization to redeem at wholesalers shall be considered as meeting the definition. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(g)(1))

§17-663-112 Separate households. (a) Shelter residents may apply for and participate as a separate household from that household resident who abused them.

(b) Shelter residents who are included as separate households may receive an additional allotment only once a month. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§271.2, 273.11(g)(2))

§17-663-113 Certification. Shelter residents who apply as separate households shall be certified on the basis of their income and resources and the expenses for which they are responsible. They shall be certified without regard to the income, resources, and

expenses of their former households. Jointly held resources shall be considered inaccessible as set forth in section 17-663-117. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(g)(3))

§17-663-114 Shelter expenses. Room payments to the shelter shall be considered shelter expenses. [Eff 3/19/93] (Auth: HRS 346-14) (Imp: 7 C.F.R. §273.11(g)(3))

§17-663-115 Expedited services. Shelter residents eligible for expedited service shall be handled in accordance with processing standards set forth in chapter 17-647. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.2(3)(v))

§17-663-116 Authorized representative. Shelters for battered women and children may purchase food in an authorized retail store when acting as an authorized representative of an eligible individual or when using the coupons on the individual's behalf. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §278.2(g))

§17-663-117 Inaccessible resources. Resources shall be considered inaccessible to persons residing in shelters for battered women and children if:

- (1) The resources are jointly owned by those persons and by members of their former household; and
- (2) The shelter resident's access to the value of the resources is dependent on the agreement of a joint owner who still resides in the former household. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.8(d))

§17-663-118 Use of coupons. Residents of shelters for battered women and children may use their coupons to purchase meals prepared especially for them at a shelter which is authorized by FNS to redeem at wholesalers or which redeems at retailers as the

authorized representative of participating household.
[Eff 3/19/93] (Auth: §346-14) (Imp: 7 C.F.R.
§274.10(d))

§17-663-119 Change in former household's composition. The branch shall take prompt action to ensure that the former household's eligibility or allotment reflects the change in household's composition. Such action shall include either shortening the certification period by issuing a notice of expiration in accordance with chapter 17-648 to the former household of shelter residents or acting on the reported change in accordance with chapter 17-655 by issuing a notice of adverse action in accordance with chapter 17-649. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(g)(5))

§§17-663-120 to 17-663-122 (Reserved).

SUBCHAPTER 12

HOUSEHOLDS CONTAINING SPONSORED ALIEN MEMBERS

§17-663-123 Definitions. As used in this subchapter:

"Date of admission" means the date established by the Immigration and Naturalization Service as the date the sponsored alien was admitted for permanent residence.

"Sponsor" means a person who executed an affidavit or affidavits of support or similar agreement on behalf of an alien as a condition of the alien's admission into the United States as a permanent resident on or after February 1, 1983.

"Sponsored alien" means those aliens lawfully admitted for permanent residence into the United States as described in chapter 17-655. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(h)(1))

§17-663-124 Deeming of sponsor's income and resources. (a) The income and resources of the alien shall be deemed to include the following:

- (1) All income and resources of any person who executed an affidavit of support on behalf of such alien; and
- (2) All income and resources of the spouse of the person who executed an affidavit of support on behalf of such alien.

(b) The provisions of subsection (a) shall apply with respect to the alien until such time that the alien:

- (1) Achieves United States citizenship through naturalization; or
- (2) Has worked forty qualifying quarters of social security coverage. Beginning January 1, 1997, a quarter in which the alien received any federal means-tested assistance is not counted as a qualifying quarter.

(c) The amount of income and resources deemed to be that of the sponsored alien, in accordance with subsection (a) shall be considered in determining the eligibility and benefit level of the household of which the alien is a member.

(d) Aliens who are subject to monthly reporting shall report their sponsor's and sponsor's spouse's income and resources monthly as part of their monthly eligibility report. [Eff 3/19/93;am 10/28/96] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(h)(2),

§17-663-125 REPEALED. [R 10/28/96]

§17-663-126 Sponsored alien's responsibilities.

(a) For a period of three years from the alien's date of entry or date of admission as a lawful permanent resident, the alien shall be responsible for:

- (1) Obtaining the cooperation of his sponsor;
- (2) Providing the branch with the information and documentation necessary to calculate deemed income and resources both at the time of application and at the time of recertification; and

- (3) For providing the names (or other identifying factors) of other aliens for whom the alien's sponsor has signed an agreement to support to enable the branch to determine how many of such other aliens are food stamp program applicants or participants and initiate the proration provisions of section 17-663-124(f).

(b) If such information about other aliens for whom the sponsor is responsible is not provided to the branch, the deemed income and resources amounts calculated shall be attributed to the applicant alien in their entirety until such time as the information is provided.

(c) The alien shall be responsible for reporting the required information about the sponsor and sponsor's spouse should the alien obtain a different sponsor during the certification period and for reporting a change in income should the sponsor or the sponsor's spouse change or lose employment or become deceased during the certification period. Such changes shall be handled in accordance with the timeliness standards and procedures specified in chapter 17-680. [Eff 3/19/93; am 2/7/94] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(i)(4))

§17-663-127 Verification. (a) The branch shall obtain and verify the following information from the alien or alien's spouse both at the time of initial application and at the time of recertification:

- (1) The income and resources of the alien's sponsor and the sponsor's spouse at the time of the alien's application, recertification, and at the time of the monthly eligibility report for food stamp assistance, except that resources need only be verified at the time of the monthly report if questionable;
- (2) The names or other identifying factors, such as an alien registration number, of other aliens for whom the sponsor has signed an affidavit of support or similar agreement.
- (3) The provision of the Immigration and Nationality Act under which the alien was admitted;

- (4) The date of the alien's admission as a lawful permanent resident as established by INS;
 - (5) The alien's date of birth, place of birth, and alien registration number;
 - (6) The number of dependent's who are claimed or could be claimed as dependents for federal income tax purposes of the sponsor and the sponsor's spouse; and
 - (7) The name, address, and phone number of the alien's sponsor.
- (b) The branch shall verify income information obtained in accordance with section 17-663-126 and this section.
- (c) The branch shall verify all other information which the branch determines is questionable and which affects household eligibility and benefit level in accordance with chapter 17-647 for verifying questionable information.
- (d) The branch shall assist aliens in obtaining verification in accordance with the provisions of chapter 17-647. [Eff 3/19/93; am 10/28/96] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.11(h)(5), 273.21; Pub. L. No. 104-193 (1996))

§17-663-128 Awaiting verification. (a) If information necessary to carry out the provisions of section 17-663-124 is not received or verified on a timely basis, the sponsored alien shall be ineligible until such time as all necessary facts are obtained. The eligibility of any remaining household members shall be determined.

(b) The income and resources of the ineligible alien (excluding the attributed income and resources of the alien's sponsor and sponsor's spouse) shall be treated in the same manner as a disqualified member, as specified in subchapter 7, and considered available in determining the eligibility and benefit level of the remaining household members.

(c) If the sponsored alien refuses to cooperate in providing and verifying needed information, other adult members of the alien's household shall be responsible for providing and verifying the required information in accordance with chapter 17-647.

(d) If the information or verification is subsequently received, the branch shall act on the information as a reported change in household membership in accordance with chapter 17-680.

(e) If the same sponsor is responsible for the entire household, the entire household is ineligible until such time as needed sponsor information is provided and verified. The branch shall assist aliens in obtaining verification in accordance with the provisions of chapter 17-647. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.11(h)(6), 273.21)

§17-663-129 Overpayment due to incorrect sponsor information. (a) Any sponsor of an alien and the alien shall be jointly and severably liable for repayment of any overpayment of coupons as a result of incorrect information provided by the sponsor. However, if the alien's sponsor had good cause or was without fault for supplying the incorrect information, the alien's household shall be solely liable for repayment of the overpayment. Examples of good cause or without fault are:

- (1) Incorrect application of state rules by the branch;
- (2) The alien provided incorrect information regarding the sponsor's income and assets and the sponsor was unaware of the alien's actions; or
- (3) The alien sponsor was unable to provide accurate information regarding income and assets because of a mental disorder.

(b) Where the sponsor did not have good cause, the branch shall decide whether to establish a claim for the overpayment against the sponsor or the alien's household, or both. The branch may choose to establish claims against both parties at the same time or to establish a claim against the party it deems most likely to repay first. If a claim is established against the alien's sponsor first, the branch shall ensure that a claim is established against the alien's household whenever the sponsor fails to respond to the branch's demand letter within thirty days of receipt. The branch shall return to the alien's sponsor (and the

alien's household, if appropriate) any amounts repaid in excess of the total amount of the claim.

(c) The sponsor is entitled to a hearing either to contest a determination that the sponsor was at fault where it was determined that incorrect information has been provided or to contest the amount of the claim. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(h)(7))

§17-663-130 Collecting claims against sponsors.

(a) The branch shall initiate collection action by sending the alien's sponsor a written demand letter which informs the sponsor of the following:

- (1) The amount owed;
- (2) The reason for the claim; and
- (3) How the sponsor may pay the claim.
- (4) That the sponsor shall not be held responsible for repayment of the claim if the sponsor can demonstrate that there was good cause or that the sponsor was without fault for the incorrect information having been supplied to the branch. In addition, the branch shall follow-up the written demand letter with personal contact, if possible.

(b) The branch may pursue other collection actions, as appropriate, to obtain payment of a claim against any sponsor which fails to respond to a written demand letter. The branch may terminate collection action against a sponsor at any time if it has documentation that the sponsor cannot be located or when the cost of further collection is likely to exceed the amount that can be recovered.

(c) If the alien's sponsor responds to the written demand letter and is financially able to pay the claim at one time, the branch shall collect a lump sum cash payment. The branch may negotiate a payment schedule with the sponsor for repayment of the claim, as long as payments are provided in regular installments. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(h)(8))

§17-663-131 Collecting claims against alien households. Prior to initiating collection action

against the household of a sponsored alien for repayment of an overpayment caused by incorrect information having been supplied concerning the alien's sponsor or sponsor's spouse, the branch shall determine whether such incorrect information was supplied due to inadvertent error or intentional program violation on the part of the alien.

- (1) If sufficient documentary evidence exists to substantiate that the incorrect information concerning the alien's sponsor or sponsor's spouse was provided due to intentional program violation on the part of the alien, the branch shall pursue the case in accordance with chapter 17-604.1. The claim against the alien's household shall be handled as an inadvertent household error claim prior to the determination of intentional program violation by and administrative disqualification hearing official or a court of appropriate jurisdiction.
- (2) If the branch determines that the incorrect information was supplied due to misunderstanding or unintended error on the part of the sponsored alien, the claim shall be handled as an inadvertent household error claim, in accordance with sections chapter 17-683. These actions shall be taken regardless of the current eligibility of the sponsored alien or the alien's household.
[Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(h)(8))

§§17-663-132 to 17-663-134 (Reserved).

SUBCHAPTER 13

MILITARY HOUSEHOLDS

§17-663-135 Purpose. (a) The purpose of this subchapter is to govern the manner in which the income of households including active duty military personnel are to be budgeted.

(b) This subchapter is subject to waiver approval by the Food and Nutrition Service (FNS) of the United States Department of Agriculture (USDA) and may in total or in part be nullified and voided upon the termination of the department's waiver approval by FNS. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.10)

§17-663-136 Definitions. As used in this subchapter:

"COLA" means the federal cost of living adjustment payment given to all military personnel in Hawaii.

"LES" means the leave and earnings statement which is an accounting of the earned income received and deductions taken from military pay. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.2)

§17-663-137 Military income. (a) Income for military personnel shall include basic wages, sea duty payment (SEA) basic allowance for quarters (BAQ), cost of living subsistence (BAS), and cost of living allowance (COLA), as shown on the leave and earnings state-ment (LES).

(b) The clothing maintenance allowance (CMA) shall be considered a reimbursement.

(c) A household living on base shall be considered to be receiving in-kind benefit when no BAQ and BAS amount is shown on the LES.

(d) A household living on base receiving a BAQ amount and which has an equivalent amount or a portion of housing shall have the total BAQ amount shown on the LES counted as earned income. The household may be eligible for a shelter deduction for the payment for housing shown on the LES.

(e) Military income shall be budgeted in accordance with chapter 17-681, except as specified in this subchapter. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.9(b))

§17-663-138 Treatment of military personnel's income when individual is temporarily deployed to duty away from home. (a) When a military person is removed

from the food stamp household because of deployment temporarily away from home, the income that is left to the household which originates from the military pay shall be treated as unearned income.

(b) Only that portion of the military person's income which is available to the household either in the form of an allotment, directly deposited into a joint or spouse's bank account or contributed to the household, shall be counted as income to the food stamp household.

(c) When a military person returns to the household after being temporarily deployed, the person's earnings shall be prospectively budgeted in accordance with chapter 17-680. However, that portion of the household's income which originated from the military personnel's earnings, such as an allotment, shall not be budgeted in determining the households eligibility or level of benefits. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.21(g) and (j))

§§17-663-139 to 17-663-142 (Reserved).

SUBCHAPTER 14

CATEGORICAL ELIGIBILITY

§17-663-143 Categorically eligible households.

(a) Households in which all members are recipients of aid to families with dependent children (AFDC), general assistance (GA), or supplemental security income (SSI) benefits, or a combination of these assistance grants shall be considered eligible for food stamps unless the entire household is institutionalized as defined in chapter 17-655 or disqualified for any reason from receiving food stamps.

(b) Residents of public institutions who apply jointly for SSI and food stamp benefits prior to their release from the institution in accordance with chapter 17-655, shall not be categorically eligible upon a finding by the Social Security Administration (SSA) of potential SSI eligibility prior to their release. These individuals shall be considered categorically eligible

when a final SSI eligibility determination is completed and the individual has been released from the institution.

(c) Individuals shall be considered to be recipients of AFDC, GA, or SSI benefits when:

- (1) The individual is authorized to receive AFDC, GA, or SSI benefits but has not yet received payment;
- (2) The AFDC, GA, or SSI benefits are suspended or recouped; or
- (3) The individual is entitled to AFDC or GA benefits but is not receiving these benefits because the grant is less than \$10.

(d) Individuals entitled to medicaid only who are not recipients of AFDC, GA, or SSI benefits shall not be categorically eligible for food stamps.

(e) Households shall be certified in accordance with the notice, procedural and timeliness requirements as specified in chapter 17-647. [Eff 3/19/93; am 12/18/95] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.2(j))

§17-663-144 Application processing for categorically eligible AFDC households. (a) The branch may temporarily postpone, within the thirty day processing standard, the food stamp eligibility determination when the AFDC household is not entitled to expedited service and appears to be categorically eligible. The branch shall postpone denying a potentially eligible household until the thirtieth day in the event the household is determined eligible to receive AFDC benefits.

(b) Upon approval of the AFDC application, the household shall be considered categorically eligible if the household meets all the criteria for categorical eligibility. The initial AFDC payment shall be budgeted in accordance with the joint processing procedures in subchapter 8.

(c) When a household files a joint application for food stamps and AFDC benefits or a household that has an AFDC application pending and is denied food stamps, the branch shall:

- (1) Ensure that the denied application of a potentially categorically eligible household is easily retrievable;

- (2) Reevaluate the original application at the household's request or when the household's AFDC eligibility becomes known to the branch; and
- (3) Inform the household on the notice of denial of the possibility of categorical eligibility and to notify the branch if AFDC benefits are approved.

If the household is later determined eligible to receive AFDC benefits and is otherwise categorically eligible, the branch shall:

- (A) Provide benefits using the original application and any other pertinent information occurring subsequent to that application;
- (B) Not reinterview the household, but use any available information to update and reevaluate the application;
- (C) Contact the household by phone or mail to explain and confirm possible changes and to determine if other changes in household circumstances have occurred;
- (D) Arrange for the household or its authorized representative to initial all changes, resign and date the updated application; and
- (E) Prorate benefits for the initial month from one of the following, whichever is later:
 - (i) The effective date of the AFDC benefits; or
 - (ii) The date of the original food stamp application. [Eff 3/19/93]
(Auth: HRS §346-14) (Imp: 7
C.F.R. 273.2(j))

§17-663-145 Eligibility determination for categorically eligible households. (a) Eligibility factors for food stamps not requiring the verification as specified in chapter 17-647, due to the household's status as AFDC, GA, or SSI which required the household to provide verification, shall include:

- (1) The resource limits;
- (2) Gross and net income limits;

- (3) Social security number information;
- (4) Sponsored alien information; and
- (5) Residency.

(b) When one or more of the following factors are questionable, the branch shall verify that the categorically eligible household:

- (1) Contains only members who are AFDC, GA, or SSI recipients as stated in this subchapter;
- (2) Meets the household definition in chapter 17-655;
- (3) Includes all persons who purchase and prepare food together in one food stamp household regardless of whether or not they are separate units for AFDC, GA, or SSI purposes; and
- (4) Includes no persons who have been disqualified as provided for in subsections (e) or

(c) Households subject to retrospective budgeting that have been suspended for AFDC, or that receive zero benefits shall continue to be considered as recipients authorized to receive food stamp benefits.

(d) Categorical eligibility shall be assumed at recertification in the absence of a timely financial assistance redetermination. When a recertified household is terminated from AFDC or GA benefits, the procedures in section 17-663-87(e), (f), and (g) shall apply as appropriate.

(e) Under no circumstances shall any AFDC or SSI household be considered categorically eligible if:

- (1) Any member of that household is disqualified for an intentional program violation;
- (2) The household fails to comply with the monthly reporting requirements; or
- (3) The head of the household is disqualified for failure to comply with the work requirements specified in subchapter 3 of chapter 17-684.

These households are subject to all food stamp eligibility and benefits provisions including the provisions of section 17-663-80 and cannot be reinstated in the food stamp program on the basis of the categorical eligibility provisions.

(f) The following individuals shall not be included as a member in an AFDC or SSI household which is otherwise categorically eligible:

- (1) An ineligible alien;

- (2) An ineligible student of higher education;
 - (3) An SSI recipient in a cash-out state;
 - (4) An individual institutionalized in a nonexempt facility; or
 - (5) An individual who has been determined to be ineligible for food stamp assistance because of failure to comply with the department's work requirements.
- (g) A GA household shall not be considered categorically eligible if:
- (1) It refuses to cooperate in providing information that is necessary for making a determination that is necessary for making a determination of its eligibility or for completing any subsequent review of its eligibility, as described in sections 17-647-5 and 17-650-5;
 - (2) The household is disqualified because the head of household fails to comply with the work requirement;
 - (3) The household is ineligible under the striker provisions as stated in section 17-655-37; or
 - (4) The household is ineligible because it knowingly transferred resources for the purpose of qualifying or attempting to qualify for food stamps, as provided in section 17-675-67.
- (h) No person shall be included as a member of an otherwise categorically eligible GA household if that person is:
- (1) An ineligible alien;
 - (2) An ineligible student of higher education;
 - (3) Disqualified for failure to provide or apply for an SSN;
 - (4) A household member, not the head of household, disqualified for failure to comply with a work requirement;
 - (5) Disqualified for intentional program violation;
 - (6) An SSI recipient in a cash-out State; or
 - (7) An individual who is institutionalized in a nonexempt facility. [Eff 3/19/93; am 2/7/94; am 12/18/95] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.2(j)(2))

§17-663-146 Benefit determination for categorically eligible households. In computing the household's benefit determination, the branch shall use all applicable food stamp budgeting procedures in determining the household's income inclusions and exclusions and deductions as specified in chapters 17-675 and 17-681. Pursuant to section 17-663-145(a), the gross and net income eligibility limits shall not apply to categorically eligible households. The branch shall issue the following benefits to households who are categorically eligible for food stamps:

- (1) One and two member households shall be entitled to a minimum of \$10 in food stamp benefits per month; and
- (2) Households containing three or more members shall be entitled to benefits of at least \$2 if the Thrifty Food Plan reduced by thirty per cent of their net income is at least \$1. If the benefit determination for these households is equal to zero benefits, the branch shall not deny the household's food stamp application but shall certify the household and suspend the household's participation, subject to the following conditions:
 - (A) The suspended household shall be informed in writing of the suspended status, and of the household's rights and responsibilities while suspended;
 - (B) The household shall be informed of the change reporting requirements and the manner in which the changes shall be reported and processed;
 - (C) The household shall be converted from suspension to issuance status whenever the household reports timely to the branch:
 - (i) A decrease in the household's income; or
 - (ii) An increase in the household's allowable food stamp deductions;
 - (D) If the household is in suspended status, the household shall be required to reapply for participation when the

household reports a change in the household's situation which causes the household to no longer qualify for its AFDC, GA, or SSI benefits;

- (E) The household shall be allowed to retain the right to submit a new application while suspended;
- (F) The household shall be converted from suspension to issuance status without an additional certification interview and shall be issued the household's initial allotment, within ten days of the date the household reports the change;
- (G) The household's benefits shall be prorated in the first month after the suspension period from the date the household reports the change;
- (H) The branch may delay the work registration of the household's members until the household is determined to be entitled to benefits. [Eff 3/19/93; am 12/18/95] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.2(j)(2), 273.10(e)(2))

§17-663-147 Categorical eligibility for SSI households. (a) Households applying simultaneously for SSI and food stamp benefits shall be subject to food stamp eligibility criteria.

(b) Benefit levels shall be based solely on food stamp eligibility criteria until the household is considered categorically eligible.

(c) Households whose members are AFDC or SSI recipients or are authorized to receive AFDC or SSI benefits as defined in section 17-663-143 shall be eligible for food stamp benefits.

(d) Households whose food stamp only application is denied and whose SSI application is pending shall be informed on the notice of denial of the possibility of categorical eligibility when SSI benefits are approved.

(e) Residents of public institutions who apply jointly for SSI and food stamp benefits prior to their release from the institution in accordance with chapter 17-655 shall not be categorically eligible upon a finding by SSA of potential SSI eligibility prior to

such release. The individual shall be considered categorically eligible at such time as a final SSI eligibility determination has been made and the individual has been released from the institution. Benefits shall be paid from the date of release from the institution.

(f) Excess medical and uncapped shelter expense deductions shall be given to households with eligible elderly or disabled individuals when the expenses are incurred under the following conditions, whichever is later:

- (1) During the period when the individual is authorized to receive SSI benefits; or
- (2) Following the date of the food stamp application.

(g) Elderly and disabled individuals who are entitled to restored benefits in accordance with section 17-663-142 shall have their benefits restored using the excess medical and uncapped shelter expense deductions if the individuals incurred the expenses. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.2(k), 273.10(d)(7))

§§17-663-148 to 17-663-151 (Reserved).

SUBCHAPTER 15

HOMELESS FOOD STAMP HOUSEHOLDS

§17-663-152 Definitions. As used in this subchapter:

"Homeless individual" means an individual who lacks a fixed and regular nighttime residence or an individual whose primary nighttime residence is:

- (1) A supervised shelter designed to provide temporary accommodations (such as a welfare hotel or congregate shelter);
- (2) A halfway house or similar institution that provides temporary residence for individuals intended to be institutionalized;

- (3) A temporary accommodation for not more than ninety days in the residence of another individual; or
- (4) A place not designed for, or ordinarily used, as a regular sleeping accommodation for human beings (a hallway, a bus station, a lobby, or similar places).

"Homeless meal provider" means a public or private nonprofit establishment (e.g. soup kitchen, temporary shelter), approved by the program development - income maintenance (food stamps) office, that feeds homeless persons. [Eff 3/19/93; am 10/28/96] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.2; Pub. L. No. 104-193 (1996))

§17-663-153 Participation of homeless food stamp households. (a) Homeless food stamp individuals as defined in section 17-663-152 shall be permitted to use their food stamp benefits to purchase prepared meals from homeless meal providers authorized by FNS as specified in section 17-663-155.

(b) The use of food stamp benefits to purchase prepared meals from the homeless meal providers shall be on a voluntary basis. If other individuals have the option of eating free or making a monetary donation, food stamp recipients shall be provided the same option of eating free or making a donation in money or food stamps.

(c) If the homeless food stamp individual chooses to use food coupons to purchase prepared meals from the homeless meal providers, the household shall not be entitled to any cash change or credit slips from the meal provider. However, when change is required for \$5 and \$10 coupons, the household may be issued uncanceled and unmarked \$1 coupons by the meal provider which were previously accepted for meals served to food stamp recipients. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.10(e) and (i), 273.11(h), 278.2(b))

§17-663-154 Approval of homeless meal providers. (a) Establishments or shelters who wish to become homeless meal providers shall submit an application

with the program development - income maintenance (food stamps) (PD-IM(FS)) office. The PD-IM(FS) office shall approve the application form for homeless establishments and shelters when the PD-IM(FS) office is satisfied upon sufficient evidence that the establishment or shelter does in fact serve meals to homeless persons.

(b) The PD-IM(FS) office shall make the determination that the applicant meal provider is serving meals to homeless individuals by one or a combination of the following methods:

- (1) Conducting an on-site investigation of the establishment or shelter;
- (2) Examining the establishment's records;
- (3) Confirming with other licensing agencies, e.g., department of health, that the establishment is authorized to prepare and serve meals to the public; or
- (4) Through collateral contacts designated by the establishment.
 - (A) The collateral contact may be made either in person or by the telephone;
 - (B) The acceptability of a collateral contact shall not be restricted to a particular individual or organization but may be any individual or organization who may be expected to provide an accurate third-party verification of the establishment's statements; and
 - (C) Examples of acceptable collateral contacts include:
 - (i) Landlords;
 - (ii) Social Service agencies; or
 - (iii) Other governmental agencies.

(c) The PD-IM(FS) office shall notify the meal provider establishment of the decision rendered on the meal provider's application. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §272.9)

§17-663-155 Participation of homeless meal providers. (a) Homeless meal providers as defined in section 17-663-152 shall be responsible for obtaining approval from the program development - income maintenance (food stamps) (PD-IM(FS)) office as set forth in

section 17-663-154 that it does serve meals to homeless persons.

(b) Upon receipt of the approval notification from the PD-IM(FS) office, the homeless meal provider shall apply with the local FNS office to qualify for authorization to accept food stamps from homeless food stamp recipients and shall provide FNS with the written approval notice from PD-IM(FS). The FNS office shall make the final decision whether the establishment or shelter shall be authorized as a homeless meal provider.

(c) Authorized homeless meal providers may only request voluntary use of food stamps from homeless food stamp recipients and may not request such households using food stamps to pay more than the average cost of the food purchased by the homeless meal provider contained in a meal served to the patrons of the meal service. For purposes of this section, "average cost" is determined by averaging food costs over a period of up to one calendar month. Voluntary payments by food stamp recipients in excess of such costs may be accepted by the meal providers. The value of donated foods from any source shall not be considered in determining the amount to be requested from food stamp recipients. All indirect costs, such as those incurred in the acquisition, storage, or preparation of the foods used in meals shall also be excluded. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §278.2)

§§17-663-156 to 17-663-158 (Reserved).

SUBCHAPTER 16

PRERELEASE APPLICATIONS FROM RESIDENTS OF INSTITUTIONS

§17-663-159 Prerelease applicants. (a) Households whose members are residents of a public institution which applies for SSI under the SSA's Prerelease Program for the Institutionalized shall be allowed to apply for food stamp benefits jointly with their application for SSI prior to their release from the institution.

(b) The local SSA office shall be responsible to determine whether the applicant who is applying for both SSI and food stamp benefits is a resident of an authorized public institution. If the applicant is no longer a resident of the institution and the application appears to be questionable, the branch shall confirm with the local SSA office whether the applicant had filed its joint application while a resident of an authorized public institution. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.2, 273.11(i))

§17-663-160 Application processing for residents who have applied under the SSA's prerelease program for the institutionalized. (a) Residents of public institutions applying for SSI and food stamp benefits shall complete a single application for both SSI and food stamps before being released from the institution.

(b) The date of application shall be the date the resident is released from the institution. For residents of public institutions applying for food stamp benefits prior to their release from the institution, the branch shall meet the appropriate processing time frames as stated in chapter 17-647 for each applicant household.

(c) The benefit level for the initial month of certification shall be based on the date of the month the household is released from the institution. [Eff 3/19/93] (Auth: HRS §347-14) (Imp: 7 C.F.R. §§273.2, 273.10(a))